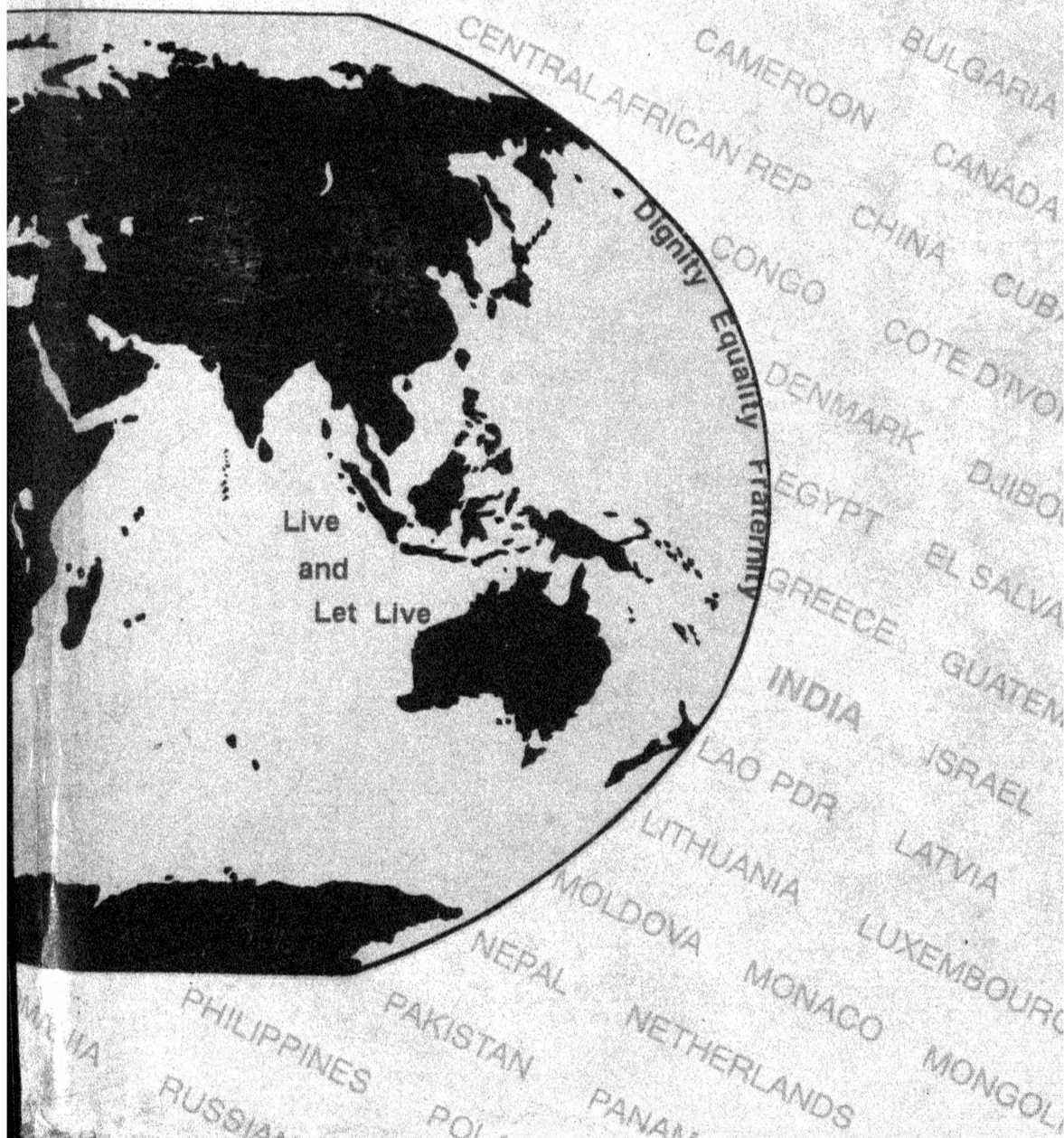


Triumph of Democracy

AN OVERVIEW OF WORLD PARLIAMENTS

Editor : C.K. Jain



Past few years have witnessed a profound transformation in the political systems of the countries. This is, indeed, a welcome change. Notwithstanding the transitional difficulties and hurdles which are inevitable in any resurgent society, the world can now look forward for a climate in which free thinking will flourish and spirit of cooperation will get impetus. This consolidation of the democratic outlook and aspirations of the people have underlined the important role of the Parliamentarians across the globe in bringing the different countries of the world closer by promoting a greater understanding and also paving a fertile ground for cooperation. Besides bilateral and multilateral exchange of visits at government and NGO's level, gatherings of Parliamentarians under the aegis of international organisations, in which category the IPU is at the apex, play a very important role.

This Volume, brought out by the Lok Sabha Secretariat to mark the advent of new era of opportunities and possibilities for achieving India's ancient ideal of world as one family 'Vasudheva Kutumbakam' and to coincide with the 89th Inter-Parliamentary Conference to be held in New Delhi in April, 1993, and edited by the Secretary-General, Lok Sabha, Shri C.K. Jain, underscores the need to understand and practise the essential ingredients of democracy, namely, equality, justice and fraternity and focuses on the efficacy of parliamentary democracy as a viable system of governance for all countries, irrespective of their socio-political and economic conditions.

Contd.....

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Editor

C.K. Jain

Secretary-General, Lok Sabha

Published for

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PRIME MINISTER

FOREWORD

After over four decades of chilling confrontation between two alliances of nations, the recent spurt in the pace of history has released forces of change that are churning and re-shaping the world beyond recognition. The trends are often contradictory, confusing and sometimes negative. However, there is one clear and happy development discernible all over. This is the universal attraction of the concept of democracy. There is a surge of democracy and a focus on human rights all over the globe. It is the individual, as Mahatma Gandhi wanted, who is now asserting for a position of equality and freedom in his own habitat against mega-forces and their global geopolitical balancing acts.

Democracy has become the accepted norm of governance. While forms and institutional mechanisms may vary, there is a worldwide consensus on it. Recent events in various parts of the world amply prove this. Indeed, a rush towards the democratic system seems to have taken hold of the mind of all societies under non-democratic systems. This rush needs to be channeled into an orderly process and expanded to all spheres of life, from the hamlet to the United Nations.

The phenomenal increase in the membership of the Inter-Parliamentary Union is a measure of the rising aspiration of countries and governments all over the world to conform, and to be seen to be conforming, to a form of government that promises to become the sole fountain of legitimacy. The collection of articles in this compilation gives an idea of the wide diversity of the societies that have adopted the democratic norm. The articles on Indian democracy underline our deep commitment to this ideal.

The Indian Group of the Inter-Parliamentary Union deserves commendation for its painstaking and thoughtful effort in compiling the book.

A handwritten signature in dark ink, appearing to read 'P.V. Narasimha Rao'.

(P.V.Narasimha Rao)

New Delhi
March 29, 1993

INTRODUCTION

The history of democracy and democratic experiments is perhaps as old as the history of human evolution itself. Representative institutions and participative democracy had found a fertile soil in the city-states of Greece as also in several regions in ancient India millennia ago. Over the centuries, the nature and content of democracy underwent periodic transformation in tune with changing times and varying climes. Yet, all through, the inherent strength of democracy as a way of life has remained beyond the realm of any cataclysmic change. And that explains best the resurgence of democracy the world over in recent times. This triumph of democracy is manifestly the triumph of the sovereign will of the people which is at the very core of the system as a whole.

A fleeting glance of the global scenario today reveals an upsurge of democratic aspirations across the continents and the oceans. Democracy as a system of government has re-asserted its primacy in several parts of the world where hitherto other systems and methods had been tried out. This new thrust of democratic experiments has brought into sharper focus the relevance of parliamentary institutions in further promoting the cause of representative democracy.

The spirit and soul of democracy are discussions and debates. The people of India, since ancient times, have believed that the voice of the people is like the voice of the God, an idea asser-

eted by Rousseau many centuries later as *Vox Populi Vox Dei*. The in-built resilience of democracy basically derives its sustenance from the people at large. Parliamentarians, as representatives of the people, have to ever keep in mind this cardinal principle of democracy.

The globalisation of democracy, especially in the wake of the phenomenal changes of the past few years, has offered new challenges and opportunities before Parliaments and parliamentarians. This being so, international organisations and associations engaged in strengthening democratic ideals have an added responsibility to cope with the demands of the emerging scenario.

And herein lies the pivotal significance of the role of the Inter-Parliamentary Union (IPU). Starting from 1989 when the first Inter-Parliamentary Conference for international arbitration, attended by delegates from nine countries of three continents, was held in Paris, the IPU has consistently striven to bring together parliamentarians of different countries for the objective study of political, economic, social and cultural issues of global priority. Today, over a century later, the IPU has in its fold 116 member Parliaments and an associate Parliament. This itself is ample proof of the viability and contemporary relevance of this association of parliamentarians.

Parliamentarians essentially are opinion-makers, opinion-leaders and opinion-moulders. The problems faced by them vary from country to country, people to people, region to region. Yet, these issues are more or less akin, irrespective of differences in political systems and socio-economic backgrounds. The bi-annual Conferences of the IPU provide a unique opportunity to parliamentarians to discuss and share their experiences on subjects of parliamentary interest, as also exchange views on major political, social and economic issues of global concern. These Conferences also provide a forum to discuss and better understand the diversity in the nature and content of parliamentary polity prevalent amongst them. Needless to say, the deliberations tend to foster a better understanding among parliamentarians of the problems that confront humanity as a whole.

Inter-parliamentary relations assume greater importance as we are nearing the dawn of the 21st century. The world of

today is beset with many uncertainties, yet the fact remains that there is tremendous potential if we all stand together. Our seers and savants had envisioned a global society that is very much in harmony with itself and its environs. Peaceful co-existence is the message that has emanated from India all through the ages. This cherished ideal is within our grasp if we join hands and evolve common strategies. History has shown us that we have the full freedom to choose our destiny. As is said, the alternatives before us are evolution with distinction or regression, ultimately leading to extinction. The choice of course is real and it is very much ours.

India, ever since its association with the IPU soon after our independence, has been actively contributing towards further strengthening the Union as also promoting inter-parliamentary co-operation. We have had the privilege of successfully hosting the 57th Inter-Parliamentary Conference in New Delhi in October-November 1969. We are honoured to have been chosen a second time to host this Conference in April 1993. The 57th Conference was attended by 52 member-countries and the 89th Conference will have delegates from over a hundred countries. This, in itself, speaks eloquently of the crucial relevance of inter-parliamentary co-operation.

It is indeed a happy coincidence that the Lok Sabha Secretariat has thought of bringing out a publication offering an insight into the working and dynamics of democratic institutions across the globe. I hope the Book *'trumph of Democracy-An Overview of World Parlaments* will enable a better understanding of the problems of and prospects for democracy in the years ahead and encourage deeper study of different systems to promote international co-operation.

I commend the Book to all those who hold dear the ideal of peace, harmony and inter-dependence which are so essential in today's world.

New Delhi,

April, 1993

Shivraj V. Patil

Speaker, Lok Sabha

PREFACE

Phenomenal changes of far-reaching significance have altered the very face of the earth during the past few years. These developments have had considerable impact on all aspects of human activity. This is particular so in the case of the political systems prevalent in nations across the globe. Perhaps, the one most outstanding feature of the late 80's and the 90's has been the reassertion of democratic values the world over. The sovereign will of the people on which the edifice of parliamentary democracy rests has come to occupy the centre-stage of political systems in countries across the globe. This consolidation of democratic aspirations of the people has once again affirmed the primacy of parliamentary democracy as a system of governance.

The efficacy of any system ultimately depends on the people at large, especially those who breathe life into that system. In a parliamentary polity, it is the people on whom the onus lies and through them their representatives. This being so, parliamentarians have a very crucial role in making the system work efficiently so as to enable it to live up to the expectations of the people whom it represents. In today's highly inter-dependent world, parliamentarians are uniquely placed to bring together nations and peoples so as to reduce international tension, promote peace and prosperity and enhance global co-operation.

Ever since its inception in 1889, the Inter-Parliamentary Union has been ceaselessly endeavouring towards inter-parliamentary co-operation with a view to ensuring a world free from

confrontation and tension and where consultation and co-operation are the watch-words. The bi-annual Conferences of the IPU enable parliamentarians to exchange views and share and benefit from one another's experiences. They also provide opportunities for deliberation on global issues which affect all and call for collective responses. What we have to keep in mind is that while continuing our efforts to make parliamentary system more effective, we have also to simultaneously make sure that it becomes more relevant to the times.

India feels privileged to be hosting the 89th Inter-Parliamentary Conference in New Delhi in April 1993. This is the second time in less than two and a half decades that we are playing host to the IPU Conference the earlier occasion being the 56th Conference in 1969.

To mark this historic occasion, the Lok Sabha Secretariat has endeavoured to bring out this Book - *Triumph of Democracy*. Our object has been to focus on the efficacy of parliamentary democracy as a viable system of governance for all countries, irrespective of their socio-political and economic conditions.

Part-I of the Book - *Democracy in Global Perspective* - carries articles from Presiding Officers, parliamentarians and Clerks/Secretaries-General of various Parliaments dealing with their experiences in working democratic institutions. Part-II-*Democracy in India*-covers articles from Indian parliamentarians and other dignitaries on different aspects of the functioning of parliamentary democracy in India. Part-III *Country Profiles*-An Overview of World Parliaments-highlights the working of parliamentary institutions in all the member-countries of the IPU with particular emphasis on their political and electoral systems.

I am deeply beholden to the Honourable Prime Minister of India, Shri P.V. Narasimha Rao for contributing a thought provoking *Foreword* to this Book. This has naturally enhanced and enriched the value of the publication.

I am greatly indebted to Honourable Speaker, Lok Sabha, Shri Shivraj V. Patil for his illuminating Introduction, besides contributing a valuable article for this Volume. His active interest and benign guidance have been a constant inspiration in bringing out this publication.

I am particularly grateful to all our Contributors who took time off their busy schedules in acceding to our request for articles. Needless to say, their labour of love has made this publication a mine of information on parliamentary democracies at work all over the world. I would, however, like to emphasise that the views expressed in articles are those of the individual authors and the Lok Sabha Secretariat does not assume any responsibility either for the opinions expressed by the authors or for the facts cited by them.

I would also like to acknowledge the co-operation extended by the Embassies and High Commissions of member countries of the IPU in New Delhi for their valuable assistance in having information on their countries verified for authenticity. I am also grateful to the Ministry of External Affairs and our Missions abroad for all assistance received from them.

Last but not the least, I must express my deep appreciation for the laborious endeavours of my colleague, Shri G.C. Malhotra, Director, Parliament Library and Reference, Research Documentation and Information Service (LARRDIS) and his team of dedicated Officers-Shri S.K. Sharma, Joint Director, Shri M.K. Dubey, Deputy Director, Shri Vijaya-krishnan K., Assistant Director and Shri Jayadev Sahu, Research Assistant-in assisting me for this publication.

M/S CBS Publishers and Distributors (Pvt.) Ltd. deserve our heartfelt thanks for ensuring quality production, several constraints notwithstanding.

A publication of this nature has been possible only because of creative co-operation from various quarters. This, in itself, is proof of the continuing relevance of inter-parliamentary co-operation.

Information contained in Part-III of this Volume-*Country Profiles : An Overview of World Parliaments*-has been compiled by the Research and Information Division of the Lok Sabha Secretariat from published sources. To the extent possible, every effort has been made to avoid factual inaccuracies. For the sake of authenticity and veracity of information included, the original sources may be consulted.

I hope the Volume would be found useful and informative by parliamentarians, research-scholars and all those interested in the realm of parliamentary political science.

April, 1993

C.K. JAIN

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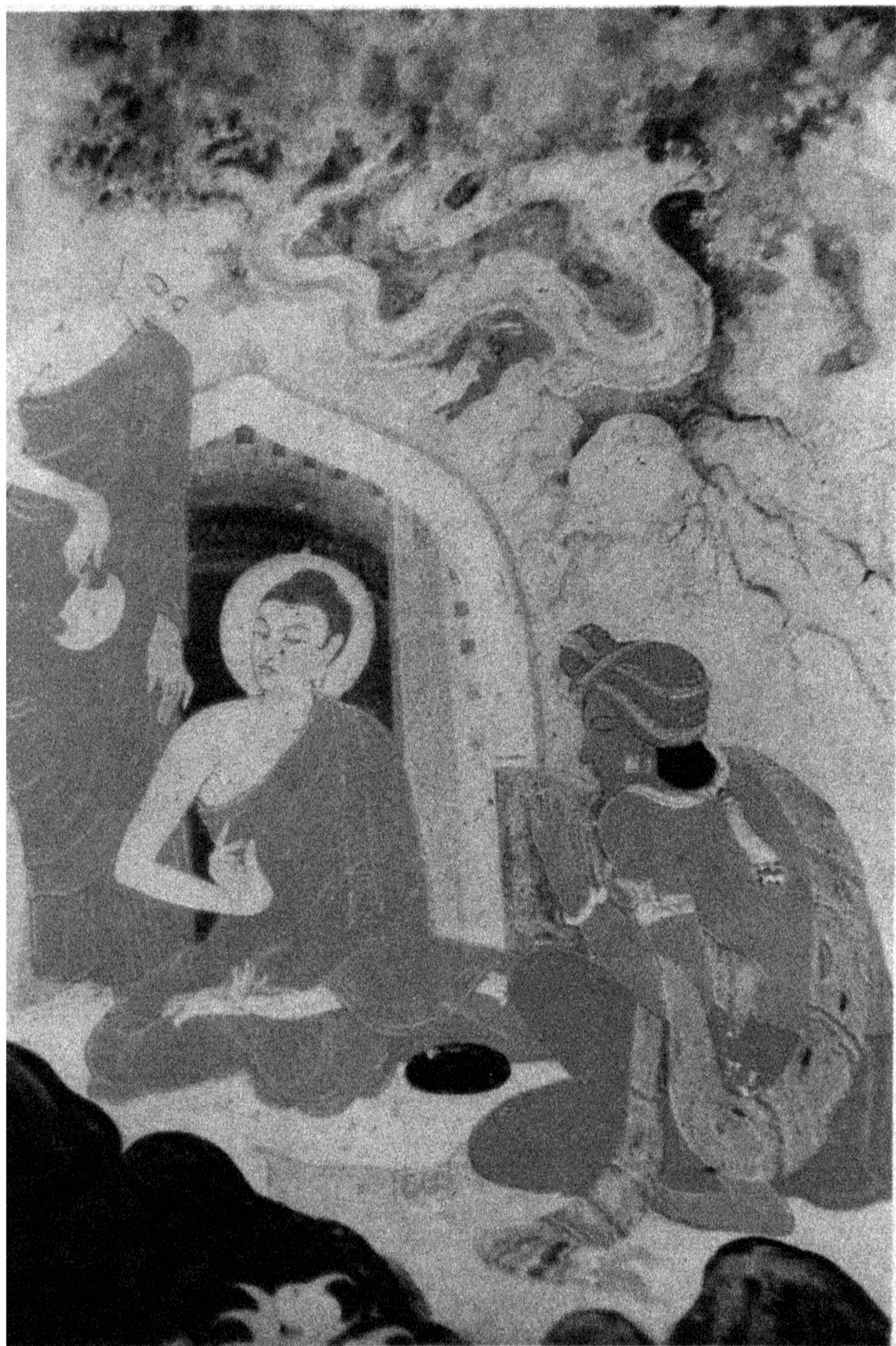
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Gautama Buddha relating the seven virtues of the elected members to Ananda

न सा सभा यत्र न सन्ति वृद्धा,
वृद्धा न ते ये न वदन्ति धर्मम्।
धर्मः स नो यत्र न सत्यमस्ति,
सत्यं न तद्यच्छुलमभ्युपैति।।

That's not an Assembly where there
are no eldersmen,

Those are not elders, who do not speak
with righteousness,

That's no righteousness where there is
no truth,

That's not the truth which leads one to
deceit.

Inscription from Mahabharata on the dome near Rajya
Sabha Chamber

“सं गच्छध्वं संवदध्वं सं वो मनांसि जानताम् ।
समानो मन्त्रः समितिः समानी । समानं मनः सह चित्तमेवाम् ॥
समानी च आकूतिः समाना हृदयानि च ।
समानमस्तु वो मनो यथा चः सुसहासति ।”

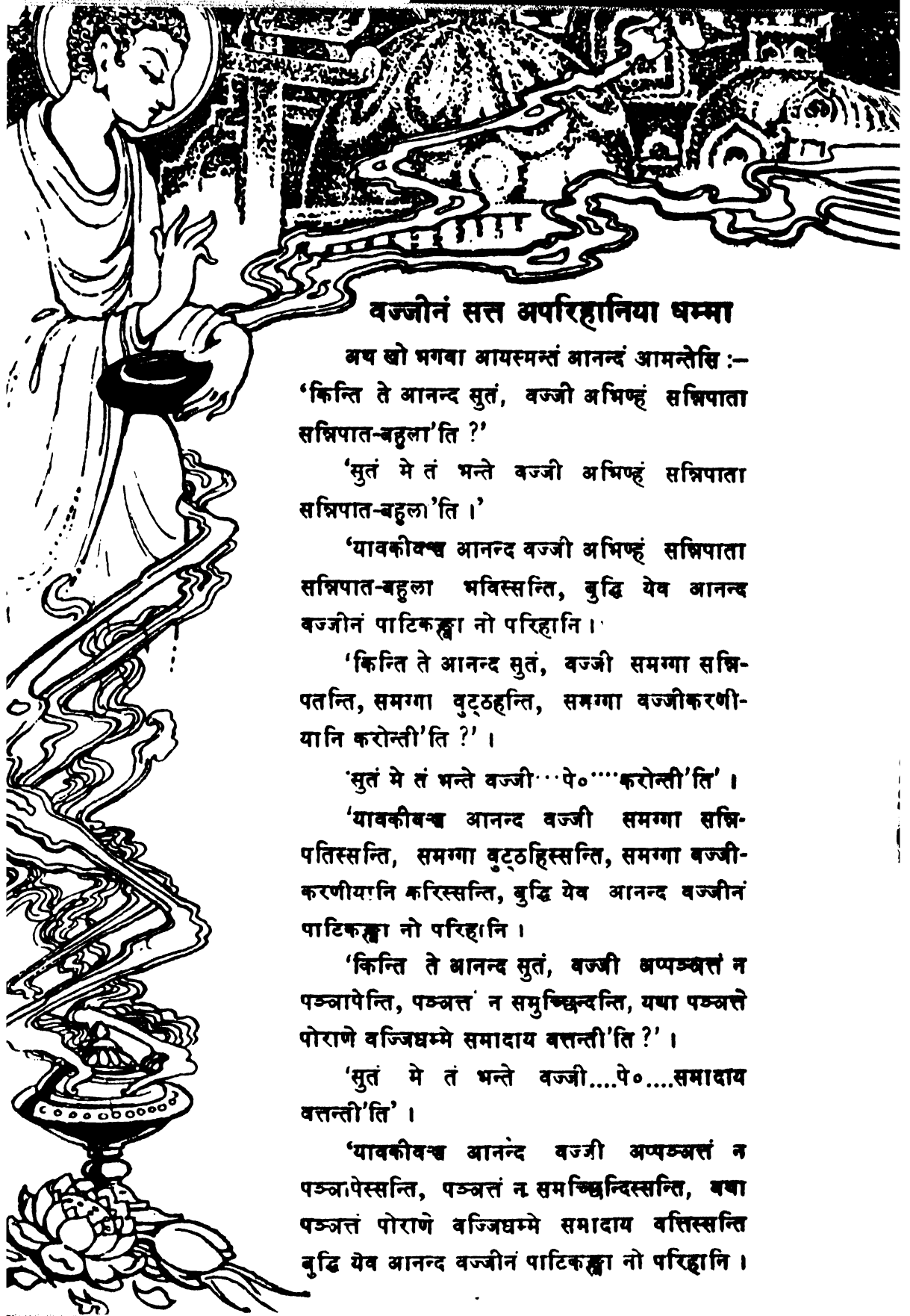
—ऋग्वेद

Meet together, talk together, let your minds
think alike:

Common be the counsel of the assembled,
Common be the association, Common be
the purpose, associated be the desire.

Common be your intention; Common be
(the wishes of) your hearts; Common be
your thoughts so that there may be thorough
union among you.

—*Rigveda*



वज्जीनं सत्त अपरिहानिया धम्मा

अथ खो भगवा आयस्मन्तं आनन्दं आमन्तेसि :-

‘कित्ति ते आनन्द सुतं, वज्जी अभिण्हं सन्निपाता सन्निपात-बहुला’ति ?’

‘सुतं मे तं भन्ते वज्जी अभिण्हं सन्निपाता सन्निपात-बहुला’ति ।’

‘यावकीवञ्च आनन्द वज्जी अभिण्हं सन्निपाता सन्निपात-बहुला भविस्सन्ति, बुद्धि येव आनन्द वज्जीनं पाटिकङ्का नो परिहानि ।’

‘कित्ति ते आनन्द सुतं, वज्जी समग्गा सन्नि-पतन्ति, समग्गा वुट्ठहन्ति, समग्गा वज्जीकरणी-यानि करोन्ती’ति ?’ ।

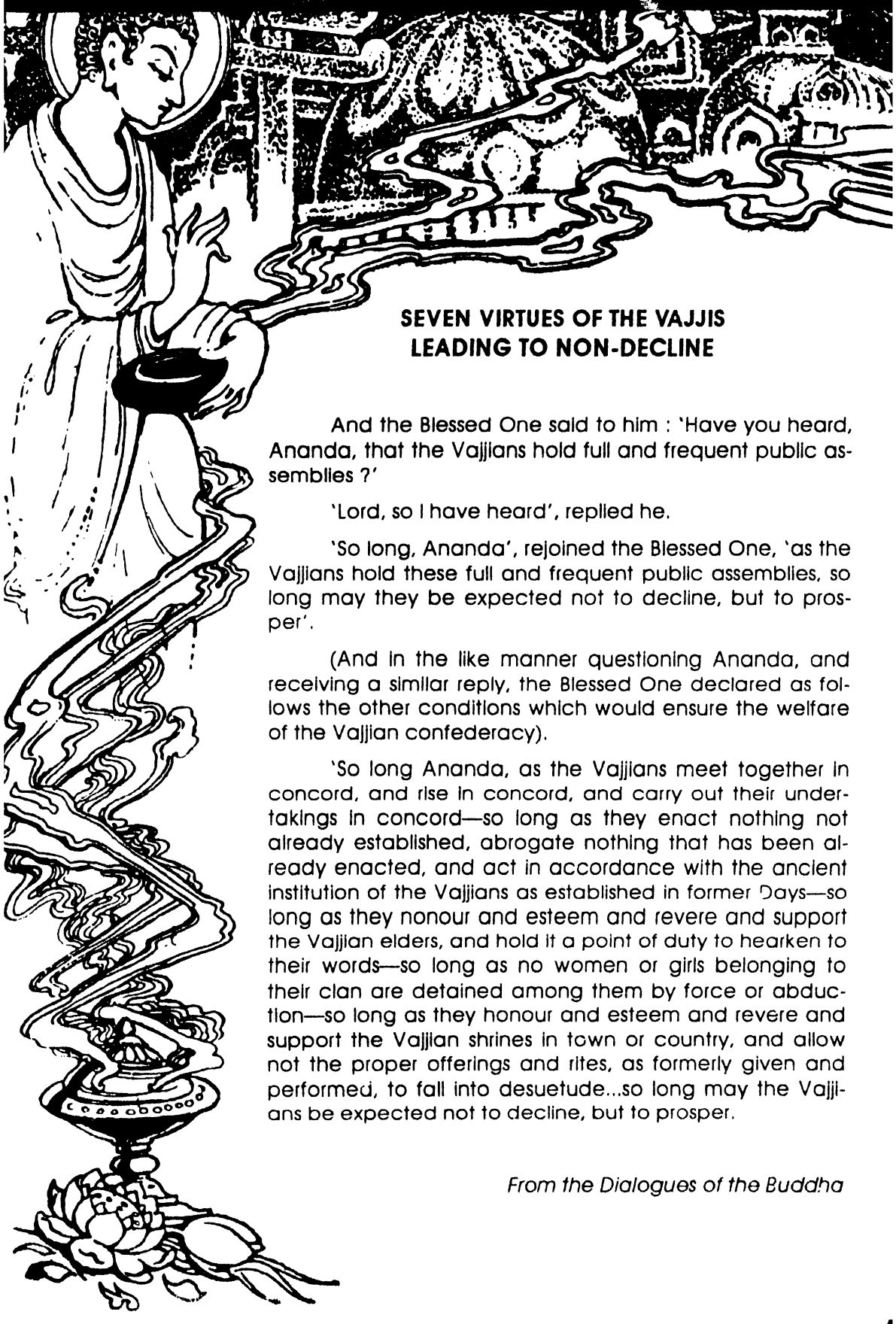
‘सुतं मे तं भन्ते वज्जी...पे०...करोन्ती’ति’ ।

‘यावकीवञ्च आनन्द वज्जी समग्गा सन्नि-पतिस्सन्ति, समग्गा वुट्ठहिस्सन्ति, समग्गा वज्जी-करणीयानि करिस्सन्ति, बुद्धि येव आनन्द वज्जीनं पाटिकङ्का नो परिहानि ।

‘कित्ति ते आनन्द सुतं, वज्जी अप्पञ्चत्तं न पञ्चापेन्ति, पञ्चत्तं न समुच्छिन्दन्ति, यथा पञ्चत्ते पोराने वज्जिघम्मे समादाय वत्तन्ती’ति ?’ ।

‘सुतं मे तं भन्ते वज्जी....पे०....समादाय वत्तन्ती’ति’ ।

‘यावकीवञ्च आनन्द वज्जी अप्पञ्चत्तं न पञ्चापेस्सन्ति, पञ्चत्तं न समुच्छिन्दिस्सन्ति, यथा पञ्चत्तं पोराने वज्जिघम्मे समादाय वत्तिस्सन्ति बुद्धि येव आनन्द वज्जीनं पाटिकङ्का नो परिहानि ।



SEVEN VIRTUES OF THE VAJJIS LEADING TO NON-DECLINE

And the Blessed One said to him : 'Have you heard, Ananda, that the Vajjians hold full and frequent public assemblies ?'

'Lord, so I have heard', replied he.

'So long, Ananda', rejoined the Blessed One, 'as the Vajjians hold these full and frequent public assemblies, so long may they be expected not to decline, but to prosper'.

(And in the like manner questioning Ananda, and receiving a similar reply, the Blessed One declared as follows the other conditions which would ensure the welfare of the Vajjian confederacy).

'So long Ananda, as the Vajjians meet together in concord, and rise in concord, and carry out their undertakings in concord—so long as they enact nothing not already established, abrogate nothing that has been already enacted, and act in accordance with the ancient institution of the Vajjians as established in former Days—so long as they honour and esteem and revere and support the Vajjian elders, and hold it a point of duty to hearken to their words—so long as no women or girls belonging to their clan are detained among them by force or abduction—so long as they honour and esteem and revere and support the Vajjian shrines in town or country, and allow not the proper offerings and rites, as formerly given and performed, to fall into desuetude...so long may the Vajjians be expected not to decline, but to prosper.

From the Dialogues of the Buddha

PART — I

**DEMOCRACY IN
GLOBAL PERSPECTIVE**

RESURGENCE OF DEMOCRACY— NEED FOR STRENGTHENING PARLIAMENTARY INSTITUTIONS

Shivraj V. Patil

Although democracy as a form of Government and a way of life has been in existence since the days of Greek city states and it was also in vogue in some form or the other in ancient India, perhaps never before in the history had it offered so formidable a challenge to alternative forms of Government as it did in the recent years. This upsurge for democracy is unprecedented in its ambit and magnitude. Besides, the contours of democracy have also acquired new contents in response to changing needs of the time.

There has been in the last few years, a resurgence of democracy the world over. The voice of Democracy found its echo in Africa and Latin America. In countries where there had been one Party democracy, a multitude of political parties emerged. The clamour for democracy also reached its crescendo in Asia—in Maynmar (Burma), Mongolia, Nepal and Thailand and yielded rich dividends. All these trends clearly indicate the vindication of the

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principles and ideals of democracy.

While every form of Government has its own share of merits and demerits and in all fairness, it is improper to pass value judgment in favour of one *vis-a-vis* the other, there is no second opinion that parliamentary democracy has an in-built resilience. This resilience comes from the self-healing institutional mechanism and structural efficacy. Democracy draws its sustenance from its cardinal character of openness. A democratic parliamentary polity is responsive to new ideas and suggestion.

Challenge Before Democracy

The challenge before parliamentary democracy today is how to cope with the rising hopes and aspirations of the people. As democracy marches ahead, new forces come to the fore impinging upon the political system. Extension of universal adult suffrage, spread of literacy, education and awareness and have unleashed new political and social forces. Consequently, those strata of society which were earlier deprived of their participation in the political process, have now come to assume greater role in the political process.

While this is an achievement of liberal democracy, in the developing world, this has also brought about considerable stresses and strains on the political system. When the political system fails to cope with the rising expectations of the people, it results in chaos, confusion and disorder. This also affects the process of economic development. The need of the hour, therefore, is to strengthen parliamentary institutions and to inculcate respect for the norms and ideals of parliamentary democracy.

It should be noted that parliamentary democracy is not only a form of Government, it is also a way of life. If the triumph of parliamentary democracy has to be sustained on a lasting basis, the imperative need for strengthening parliamentary institutions can hardly be over emphasized. The success of parliamentary polity depends upon the harmonious functioning of integral organs such as the Legislature, the Executive, the judiciary, the bureaucracy, political parties, the Press and last but not the least a vigilant public. Their respective roles and functions are well defined and they supplement one another. They do not and

should not act at cross purposes.

The Legislature : The Pivot of the System

Parliamentary polity is an organic whole in which the Legislature occupies an important place. It is a multi-functional institution — above all a representative body and a policy formulation organ of the State. It also ensures the accountability of the Executive and the bureaucracy. As a representative body, it is a grievance redressal mechanism for the common people. In this role, it mirrors people's hopes and aspirations. Various procedural devices which are well known are available to the legislators to articulate the problems faced by the electorate — be they pertain to the individual, to the constituency, or to the nation as a whole. Whatever may be the nature of the problem, it is incumbent upon the legislators to work as a conduit between the people and the Government. No wonder, therefore, a legislator is regarded by the public as a welfare officer or 'case worker'.

Our parliamentary polity becomes dysfunctional the moment it fails to feel the pulse of the People and respond to their grievances. With the limited resources at our disposal, it is not always possible to mitigate all the problems of the people. It is possible to convince the People of our limitations, constraints of resources and the possible implications of a particular policy measure on another sector or strata of the society.

Since a democratic polity is an open system and is susceptible to divisive and obscurantist forces, we must guard against these forces. The legislators, therefore, being the repository of people's faith and aspirations can play a meaningful role in channelising the creative potential and energy of the people in a positive direction. It is the responsibility of the legislators to bring the segregated and alienated strata of the society to the national mainstream. This will strengthen and promote parliamentary democracy to a large extent.

Yet another task in this regard is formulation of policy packages and progressive legislations in tune with the hopes and aspirations of the people. Although policy packages are drawn by the political Executive and initiative for legislation are taken up by them, they are discussed and deliberated thread-bare on the

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floor of the Legislature and when approved by them acquire legitimacy. Thus, the role of legislators in this respect is equally important.

The Legislature being a dynamic institution should keep pace with the changing needs of the times. As the society marches ahead, it brings in its trail attendant problems which call for a fresh look at existing laws and also new legislations. Take for example, terrorism or drug menace, problems which were not that acute earlier, are now seriously affecting the contemporary society. Such social and national problems have necessitated legislative measures.

The role of legislators do not end with the enactment of Legislation, for they have also to ensure the accountability of the Executive and their implementation by the bureaucracy for the benefit of the targeted group.

The Executive and the Bureaucracy

In a Parliamentary polity, the Executive and the bureaucracy work in conjunction with each other for the development of the nation and for the welfare of the people. It is the Executive and the bureaucracy which give substance to a legislative measure. The Bureaucracy aid and advise their Ministers in the formulation of legislative measures. The bureaucrats are responsible for their implementation at the grassroot level. They have a dual responsibility, *viz.* maintenance of law and order and ensuring development. The developmental aspect of bureaucracy has assumed great importance for the protection and promotion of parliamentary democracy, as democracy has little meaning when the people groan under poverty, malnutrition and ignorance. As such, poverty is a threat to democracy. What is sometimes experienced is that these developmental measures do not percolate down. Of course, the legislators are always there to ensure compliance by the Executive and the bureaucracy. Nevertheless, the bureaucracy should be responsive to the people and deliver the goods scrupulously.

Political Parties

Political Parties, being an integral part of our polity, have also a very important role to play in the protection and promotion

of parliamentary democracy. While the party/parties in power are entrusted with the responsibility of running the Government, the political parties, who are out of power, should not forget that they are like shadow Governments. They should, therefore, be prepared to execute and implement their alternative plan of action as and when they come to power. The overall interest of the nation should be the prime consideration.

A spirit of tolerance and mutual accommodation, therefore, is yet another requisite of parliamentary democracy. A parliamentary polity pre-ordains co-operative co-existence. A corollary of this is political pluralism. The overriding consideration, however, should be the achievement of national good. Although a democratic and parliamentary polity should aim at realising the greatest good of the greatest number, the interests of the minorities should not be lost sight of. Rather, the democratic spirit demands magnanimity and the large heartedness on the part of the majority towards the minority.

No wonder, therefore, the views of the Opposition are given equal importance in a parliamentary polity. The Opposition's role is to oppose and criticise. However, the Opposition and criticism should not be merely for the sake of opposition or criticism. They should be healthy, constructive and within the parameters of established practices and conventions. Decency and decorum have to be maintained. In a parliamentary polity, issues are to be sorted out in the public fora; whether it is the portals of the Parliament or on the floors of village Panchayat and through debate, discussion and deliberations. Consensus and co-operation should be the motto of a democratic parliamentary polity.

The Press

The Press which is regarded as the 'Fourth Estate' is yet another pillar of parliamentary democracy. The Press should play the role of a catalyst keeping close vigil on the activities of different organs of the Government. In the interest of the nation and in the interest of parliamentary democracy, the Press should report events objectively and dispassionately without fear or favour. It gives the feed back to the Legislature and the Executive, and thereby keeps them informed of the people's woes and anxieties. The Press also disseminates Government's policies and priorities.

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to the public. In this way, there is a two-way communication between the Government and the people.

Such being the role of the Press, they should avoid sensationalism. In a parliamentary polity like ours, the Press has some promotive and educative role and this is their social responsibility.

In a pluralistic society, the Press should not play up emotive issues. They should enlighten and educate the public of the virtues of democracy which will go a long way in strengthening parliamentary institutions.

The Judiciary

The role of the Judiciary in a parliamentary system is like that of the umpire in a game. It is the Judiciary that ensures that no organ of the Government transgresses the domain of the other. The success of parliamentary democracy preordains that Judiciary is allowed to function without let or hindrance. It is through Judiciary that the rule of law is preserved. An independent and fearless judiciary is indeed the hallmark of parliamentary democracy. However, while interpreting the laws, the Judiciary should not be hamstrung by rigidity. They should go by both the letter and spirit of the laws and have a social philosophy.

The People : The Ultimate Sovereign

Ultimately, however, it is the people who safeguard the ideals and institutions of parliamentary democracy. No wonder, therefore, the adage goes **Eternal Vigilance is the Price of Liberty**. Recent events in different parts of the world have amply demonstrated the sturdy and robust common sense of the people to change the Governments and the regimes who failed to deliver the goods.

PARLIAMENTARY DIPLOMACY THE IPU AND THE UN

Michael Marshall

In January 1992, the Heads of Government of the members of the UN Security Council met in New York to set a new agenda for the United Nations under its new Secretary-General, Dr. Boutros Boutros Ghali. He was asked to prepare by July, 1992 recommendations for strengthening "the capacity of the United Nations for preventive diplomacy, for peacemaking and peacekeeping".

The term preventive diplomacy comes from the 1950's UN strategy for the management and peaceful settlement of disputes. The concept of parliamentary diplomacy, on the other hand, has its origins in the foundation of the Inter-Parliamentary Union (IPU) in 1889, with the initial aim of "Promoting Treaties of Arbitration between Nations", i.e. working for peace and co-operation through contact, debate and agreed solutions among representatives from different Parliaments throughout the world. Preventive diplomacy and parliamentary diplomacy are thus complementary.

In February, 1992, the IPU's Executive Committee issued a Declaration on the "Special role of Parliamentary Diplomacy in

Peacemaking and Peacekeeping." This assured the UN Secretary-General of IPU support for UN activities, and emphasised their concern that the role of parliamentary diplomacy be strengthened. In March, 1992, the British Foreign Secretary, Mr. Douglas Hurd, stressed in the House of Commons that the IPU "is an important element in preventing conflicts from reaching the stage of war".

Since then, I have twice discussed with Dr. Boutros Boutros Ghali ways of promoting closer liaison between the UN and the IPU. We have established that parliamentarians have a useful role to play both in preventive diplomacy and post conflict peace-building. Dr. Boutros Boutros Ghali has welcomed our initiative, which will result in co-operation on election observation and in technical assistance to emerging (parliaments in collaboration with the United Nations) Development Programme. The work of the IPU's Committee on the Human Rights of Parliamentarians already links closely with that of the UN Human Rights Commission.

In the light of the UN Secretary-General's reply to the Security Council issued in June, 1992 under the title "An Agenda for Peace", a major topic for discussion at the 88th Inter-Parliamentary Conference in Stockholm in September, 1992 was the Contribution of Parliaments to enhancing the role of the United Nations. The Conference adopted without a vote a Resolution strongly supporting the UN and stressing the key role of parliamentary diplomacy.

Recent examples of parliamentary diplomacy at work include a resolution at the IPU's Conference in Mexico in 1986, unanimously condemning the Iran-Iraq conflict, which led directly to initiatives to end the eight-year war, and a resolution on human rights at the IPU's Budapest Conference in 1989, which unblocked a log-jam at the Conference on Security and Cooperation in Europe (CSCE) in Madrid.

More recently, the gradual rapprochement between the People's Democratic Republic of Korea and the Republic of Korea followed the IPU Spring Conference in Pyongyang in 1991 and the Autumn Conference in Santiago the same year emphasised the Chilean people's deep wish for democracy.

Another valuable example of parliamentary diplomacy was the first contact between Argentina and the UK following the Falklands/Malvinas conflict. This took place at the 71st IPU Conference in Geneva in 1984. Subsequent contact was maintained at successive IPU Conferences which led directly to the resumption of diplomatic relations in 1990.

Parliamentary and preventive diplomacy are, therefore, very much alive in world affairs and the IPU as a whole has much to contribute in this arena.

OPEN HOUSE IN THE PARLIAMENT BUILDING

Heinz Flscher

In recent years, the Standing Orders of the *Nationalrat*, or National Council, have been amended to enable a greater amount of openness in Parliament. Committees of enquiry have now been opened to a qualified public, in that journalists are allowed in to report the proceedings.

Needless to say, live transmissions of the parliamentary proceedings in the Chamber have been a staple of parliamentary reporting for a good many years.

In recent months, however, the doors of Parliament have been widely thrown open to the public when the Palace of Parliament was made accessible on 26 October, 1991, the National Day, and some 40,000 Austrians and a good number of foreigners, too, were given the possibility of seeing Parliament from inside. The speakers (President of the *Nationalrat* and President of the *Bundesrat*), the Deputy Speakers of the *Nationalrat* and the *Bundesrat*, or Federal Council, as well as representatives of the four parliamentary parties and of the parliamentary administration were on hand to inform the members of the public on the working of the Austrian legislature. Booklets, fact-sheets and videos were

put at the disposal of visitors; the Speakers and prominent parliamentarians were only too glad to get in touch with a crowd of visitors who flocked to our Parliament building. Charts and flow-diagrams showed the various stages of legislation, maps presented the former provinces of Austria before the First World War and various other activities and displays were laid on to keep the public informed as well as amused.

Even a 'Viennese Coffee-House' was opened where Members of Parliament were only too willing to 'entertain' the public. In this informal atmosphere, light-hearted chats enlivened the otherwise solemn atmosphere of the House. Still, serious discussions of topics of public interest were also held between MPs and members of the public, thus bringing real issues home to the visitors.

In fact, the open House was such a success that we could not but repeat this event a year later. Again, the interest the public took in the Open House was such, that Parliament was literally flooded by the public.

The Open House is not an isolated phenomenon of greater openness of Parliament and its reaching out to the public. Pupils and apprentices have been invited to the Palace of Parliament, and they held both committee and plenary sittings in which they were offered the possibility of airing their grievances on the one hand and to make proposals to improve their lot as students and young workers in modern society on the other.

In conclusion, I should like to emphasize that the above and a host of similar activities to make Parliament more accessible to the public have been crowned with success and, moreover, had quite a good press in this country.

THE POLITICAL SYSTEM OF THE REPUBLIC OF CROATIA

Stjepan Mesic

The Republic of Croatia is a Central European and Mediterranean country; 4,784,265 inhabitants, according to the last (1991) population census, reside the area of 56.538 km.

The Croatian people ranks among the oldest European nations, with its state established in the ninth century. Croatia, as an independent and organized state, entered into a personal union with Hungary, whose kings became also Croatian kings, upon a decision taken in 1102 by the Croatian Parliament—Sabor', which consisted of representatives of the Croatian aristocracy. 'Sabor (the state Sabor, the Diet) is the traditional appellation pertaining to the Croats' representative and legislative body; the continuity of its activities has been preserved (with an interruption only in the 1918-1941 and 1941-1945 periods of time). As a sovereign state, Croatia also made freely a personal union with Austria (1527), representing, in the period of the real union in the Austro-Hungarian monarchy, a state entity separate from both Hungary and Austria.

In the seven centuries long period of state relations with Hungary and Austria, Croatia preserved her statehood as well as her state institutions' autonomy. The Croatian Sabor succeeded in preserving its autonomous legislative power in its seven hundred years' continuity; although severely encroached in the absolutist period, it was preserved until state relations between Croatia and Austro-Hungary were dissolved in 1918. Croatia became a part of the earliest Yugoslav community in 1918, as an independent state.

Since the authorizations granted to the Croatian representatives were exceeded, and the newly established State of Serbs, Croats and Slovenes, later renamed into Yugoslavia, had a unitarian and monarchistic state organization, as soon as 1 December, 1918 the Croats engaged in renewed political struggle for an independent state via the federalist opposition and the activities of Opposition parties, with the aim of establishing a fully independent Croatian state. Through the political struggle and on the basis of an agreement reached in 1939, the Banovina (e.g. the Viceroy's Province) of Croatia was established, whereby the federalist option was legalized.

After the fall of the first Yugoslavia, during the anti-fascist war, in June, 1943, the Anti-fascist Council of the National Liberation of Croatia was formed as a legislative body, with large areas of Croatia under its authority. The first post-war Constitution was enacted by the Sabor of the People's Republic of Croatia in 1947.

In the period of second Yugoslavia, then the state cohesion between politically, culturally and ethnically heterogeneous federal units was accomplished through the monolithism of the Communist Party, Croatia succeeded in preserving her state identity even in such an unnatural state community, struggling continuously for her statehood.

The final step on the long road to her full state sovereignty and independence began with Croatia's first free, multiparty elections, held in May, 1990.

The freely elected, multiparty Sabor *unanimously proclaimed the Constitution of the Republic of Croatia on 22 December, 1990*, thus determining the Republic of Croatia as and unitary, indivis-

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ible, democratic and social state whose power derives from the people and belongs to the people as a community of free and equal citizens.

The Constitution of the Republic of Croatia is based on democratic traditions and principles of contemporary knowledge of legal and constitutional order. This Constitution, guaranteeing equal rights and responsibilities to all citizens of the Republic of Croatia, regardless of their ethnic and national origins, education and financial and property status, has opened the possibility for building a modern, democratic society.

On the basis of the Constitution, the President of the Republic, Dr Franjo Tudjman called a referendum, which was held on 19 June, 1991. It is then that the citizens of the Republic of Croatia decided, with an absolute majority (93.24%), on having a sovereign and independent Republic of Croatia.

According to the Constitution of the Republic of Croatia (Article 4), state power branches, on the principle of separation of powers, into legislative, executive, and judicial ones.

1. The Sabor of The Republic of Croatia

The Sabor (Parliament) of the Republic of Croatia is a body of representatives—citizens and the bearer of legislative power in the Republic. The Sabor is bicameral, containing the House (Chamber) of Representatives and the House (Chamber) of Zupanije (or, Zupanijas, e.g. countries).

The House of Representatives has a total of 138 representatives (MPs), elected on the basis of direct universal and equal suffrage by secret ballot. Sixty representatives are elected from state (party) lists, by proportional representation and d'Hondt method of calculating the distribution of seats among individual parties. Another sixty representatives are elected by simple majority in single-member constituencies (the Republic of Croatia being divided into 60 such constituencies).

According to the Constitutional Law of Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, members of national and ethnic communities or minorities that make 8 and more per cent

of the population are entitled to being proportionately represented in the bodies of state administration, whereas national communities or minorities whose respective shares in the population are below 8% are also entitled to being represented in such bodies; consequently, in addition to the 120 representatives, 13 members of the Serbian national minority and 5 MPs representing the remaining national minorities (Italian, Hungarian, Czech, Slovak, Ukrainian and Ruthenian, Austrian, German, and Jewish) were elected to the House of Representatives.

According to the Constitution, the House of Representatives of the Sabor of the Republic of Croatia shall :

- decide on the enactment and amendment of the Constitution;
- pass laws;
- adopt the state budget;
- decide on the war and peace;
- decide on alterations of the boundaries of the Republic;
- call referenda;
- carry out elections, appointments and relief of office, in conformity with the Constitution and law;
- grant amnesty for penal offences;
- conduct other affairs as specified by the Constitution.

Unless otherwise specified by the Constitution, the House of Representatives takes decisions that are considered as valid provided a majority of representatives are present at the session. Most decisions are made by the Chamber by majority vote of the representatives present. However, laws which regulate national rights are to be passed by a two-thirds majority vote, and laws which elaborate constitutionally determined freedoms and rights of man and citizen, the electoral system, the organization, responsibilities and mode of operation of state administration bodies, and the organization of local self-government and administration are to be passed by a majority vote of all representatives.

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Before debates and decision-making take place in the House of Representatives of the Sabor, representatives will have convened in the working bodies of the House; according to the Rules of Procedure, there are 14 such bodies.

The procedure of passing laws, by-laws and decrees, which is conducted by the House of Representatives of the Sabor, is specified in the Rules of Procedure of the House. The right to propose laws is granted to each and every MP in the House of Representatives, the working bodies of the House of Representatives, the Zupanije House of the Sabor, and the Government of the Republic of Croatia.

The procedure of the passage of a law starts in the form of a bill; included in the first stage (the so-called 1st reading) is the following; an oral presentation of the person(s) proposing it, a general debate concerning the bill, a discussion concerning the bill, a discussion about the details, including one concerning the text of the bill, a discussion about the standpoints of the working bodies concerned, and reaching a conclusion with regard to the need for the bill to become law.

Included in the second stage (the so-called 2nd reading) is a general debate and a discussion about the amendments submitted (that is, concrete proposals for amending the text of the bill), decision-making concerning the amendments and the passage of the law concerned.

In exceptional instances, if there were so many amendments submitted during the 2nd reading that as much as a third or more of the text of the bill should be altered, or for some other reasons as specified by the Rules of Procedure, a purified, final version of the text is worked out (containing all the amendments presented), and the 3rd reading of the bill is conducted. New amendments cannot be submitted at this stage of the passage of the law.

Amendments can be submitted by all those who are authorized to propose laws.

The House of Zupanije (i.e. Counties) of the Sabor of the Republic of Croatia is the upper chamber of the Sabor. (In the

Republic of Croatia there are 20 zupanije, with the city of Zagreb, the capital of the Republic, also being granted the status of a zupanija). Elections are on the basis of direct universal suffrage by secret ballot. Representatives are elected in each zupanija by proportional representation and d'Hondt method of calculating the distribution of seats from zupanije lists of candidates. The Chamber of Zupanije shall have 63 representatives; if the Serbian minority, whose share in the overall population is higher than 8 percent, does not get proportionally represented, the missing number of Serbian minority members shall be subsequently elected. Elections for the Zupanije House of the Sabor are just being held.

According to the Constitution, the Chamber of Zupanije shall:

- propose to the Chamber of Representatives bills and the calling of referenda;
- discuss and, possibly, give opinion on questions falling within the competence of the House of Representatives;
- give to the Chamber of Representatives a preliminary opinion on the procedure for the enactment of the Constitution and laws which regulate national rights, elaborate constitutionally determined freedoms and rights of man and citizen and the electoral system, the organization, responsibilities and mode of operation of government bodies, and the organization of local self-government and administration;
- it may, within a period of 15 days from the date of the passage of a law in the House of Representatives, with a substantiated opinion, return the law for fresh consideration in that Chamber. One House of Representatives shall decide on the passage of such a law by a majority vote of all representatives except when the Chamber of Representatives passes laws by a two-thirds majority;

it shall conduct other affairs as specified by the Constitution.

The House of Zupanije of the Sabor proposes to the House of Representatives the election of the High Judiciary Council of the Republic.

The Zupanije House shall also have appropriate working bodies, whose number and scope of activities are to be specified by the Rules of Procedure of the said House.

2. The President of the Republic

The President of the Republic of Croatia is the head of state, representing the Republic at home and abroad. He is responsible for abiding by the Constitution; he ensures the continuance and unity of the Republic and the regular functioning of the state authority.

His term of office is given years; he is elected on the basis of universal and equal suffrage at direct elections by secret ballot. He gets elected by a majority vote of all electors who voted; if none of the candidates has obtained such a majority, a new election is to be held within 14 days time, with the electors to vote for one of the two candidates who obtained the largest number of votes at the first election.

At the elections held in August, 1992, Dr. Franjo Tudjman became the President of the Republic of Croatia.

According to the Constitution, the President of the Republic shall:

- call elections for Chambers of the Sabor and shall convene their first session;
- call referenda, in conformity with the Constitution;
- appoint and relieve of duty and Prime Minister of the Republic of Croatia;
- at the proposal of the Prime Minister of the Republic of Croatia, appoint and relieve of duty its Vice-Premiers and members;
- grant pardons;
- confer decorations and other awards specified by law;

perform other duties specified by the Constitution.

The President of the Republic is commander-in-chief of the armed forces of the Republic of Croatia.

The President of the Republic passes decrees with the force of law and takes emergency measures in the event of a state of war or an immediate danger to the independence and unity of the Republic of Croatia, or when government bodies are prevented from regularly performing constitutional duties. During the time the President of the Republic is making use of such powers, the Chamber of Representatives may not be dissolved.

The President of the Republic submits decrees with the force of law for approval to the House of Representatives as soon as the Sabor is in a position to meet.

The conclusion that may be drawn from the above is that the Republic of Croatia has embraced a semi-presidential system, which is perceived as a good solution for the countries with new democracies in which the institutions of parliamentary democracy have not yet had long traditions.

3. The Government of The Republic of Croatia

The Government of the Republic of Croatia exercises executive powers, which are, however, shared, with the President of the Republic at individual sessions directed at decision-making and operations.

The Government is responsible to both the President of the Republic and the Chamber of Representatives of the Sabor. The procedure of determining the responsibility of the Government fore the Chamber of Representatives of the Sabor is specified the detail by the Rules of Procedure of the said Chamber. The Government is responsible to the Chamber of Representatives of the Sabor for its work and the decisions it is making, as well as for the work of the Ministries and other organs and bodies of state administration.

In the House of Representatives of the Sabor each and every MP has the right to put questions to the Government with regard to the execution of constitutional rights and responsibili-

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ties, and particularly with regard to the situation in individual spheres of social life and concerning the implementation of the law and other acts of the House of Representatives, or the work of the Ministries and other bodies and organs of state administration, as well as organizations with public authority.

A representative may address a question to the Government or an individual Minister.

In order to initiate a debate on general political and other questions concerning the work of the Government or a Ministry, at least ten representatives may submit their interpellation to the Chamber of Representatives.

Upon the proposal of at least one tenth of the overall number of MPs in the said Chamber, the question of confidence in the Prime Minister, any of the Cabinet members, or the Government as a whole may be initiated. A vote of confidence in the Government may also be requested by the Prime Minister. A confidence in the Government vote can be passed no sooner than three days after the proposal was submitted to the House of Representatives.

If the said Chamber rejects the proposal for a vote of no confidence in the Government, or an individual cabinet member, the representatives who made it may not again make the same proposal before the expiry of three months. If a vote of no confidence in the Prime Minister or the Government as a whole is passed, the Prime Minister shall submit his resignation to the President of the Republic to relieve of duty the members of the Cabinet. If a vote of no confidence in an individual member of the Government is passed, the Prime Minister may propose to the President of the Republic to relieve of duty the member of the Cabinet against whom the vote of no confidence was passed.

4. Judicial Power

Judicial power in the Republic of Croatia is exercised by Courts, which are autonomous and independent, administering justice, on the basis of the Constitution law.

In the Republic of Croatia there are regular and specialized courts. Besides municipal (basic) and district courts—regular ones, there are higher commercial courts, as well as those specialized in

maritime trials. Judicial control over administrative acts is performed by the Administrative Court of the Republic of Croatia.

The Supreme court of the Republic of Croatia is at the head of judicial power, ensuring that a uniform application of the law and equality of citizens be provided by all the above courts.

Court hearings are open, but the public is, by all means, barred for the purposes of protection of morals, the private lives of the parties, if minors are being tried, or in marital and family disputes, and it may be barred for the purposes of protection of military, official or business secrets, and for the protection of security of the Republic of Croatia's defence.

Judicial office is permanent. A judge may be relieved of his judicial office :

- at his own request;
- if he has become permanently incapacitated to perform his office;
- if he has been sentenced for a criminal offence which makes him unworthy to hold judicial office;
- if in conformity with law it is so decided by the Judiciary Council of the Republic.

The judge concerned is entitled to submitting to the Chamber of Zupanije of the Sabor and request for protection against the decision relieving him of office.

A judge cannot be transferred against his will.

5. The Constitutional Court of The Republic of Croatia

The Constitutional Court of the Republic of Croatia is a separate and independent power, apart from legislative, executive and judicial powers.

The Constitutional Court of the Republic of Croatia shall:

- decide on the conformity of laws with the Constitution;
- decide on the conformity of other regulations with the Constitution and law;

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- protect the constitutional freedoms and rights of man and citizen;
- decide jurisdictional disputes among bodies of legislative, executive and judicial branches;
- decide, in conformity with the Constitution, on the impeachability of the President of the Republic;
- supervise the constitutionality of the programmes and activities of political parties, and it may, in conformity with the Constitution, ban their work;
- supervise the constitutionality and legality of elections and republican referenda, and decide electoral disputes which do not fall within the jurisdiction of courts.

If a law is found to be unconstitutional, it shall be repealed by the Constitutional Court. By the same token, if any other regulation is found to be unconstitutional or illegal, it shall be annulled or repealed by the said Court.

The Constitutional Court of the Republic consists of eleven judges elected by the Chamber of Representatives at the proposal of the Chamber of Zupanije for a term of eight years from among outstanding jurists, especially judges, public prosecutors, lawyers and university professors of law.

Judges of the Constitutional Court of Croatia may not perform any other public or professional duties. They enjoy the same immunity as representatives in the Sabor of the Republic of Croatia.

6. Local Self-Government

By the Law on Local Self-Government and Administration, local self-government in the Republic of Croatia is organized on the basis of European tradition. Established as units of local self-government are municipalities and towns, whereas zupanije (e.g. counties) are units of local self-government and administration. There is a special law governing issues pertaining to local self-government and administration in the City of Zagreb, the capital of the Republic of Croatia. The City of Zagreb is granted the status of a Zupanija.

Established by law are : 419 municipalities, 69 towns, 20 zupanije, and the City of Zagreb with the Zupanija status.

Each unit of local self-government and administration has a representative body whose members are elected on the basis of direct universal and equal suffrage by secret ballot. One-half of the members of the representative body are chosen from lists, by proportional representation and d'Hondt method of calculating mandates, and the other half are elected by simple majority in one round in small single-member constituencies. Elections for the representative bodies of local self-government units are just being held.

THE WEU ASSEMBLY

Hartmut Soell

The WEU Assembly was set up in 1954 by the Paris Agreements modifying the Brussels Treaty. Its responsibilities therefore relate to the application of this treaty. They are very broad in scope, but the development of the European Community, in which all the member-countries of WEU participate, led it to exercise them only in areas in which those countries (Belgium, France, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain and the United Kingdom) effectively co-operate in the framework of WEU, *i.e.* foreign policy, security and defence. These are sectors where member-states have retained full sovereignty which is why no consideration has been given to electing this Assembly by direct universal suffrage, the signatories to the treaty preferring it to be composed of members of Parliament from those states.

The seven countries that signed the Paris Agreements believed the main purpose of the modified Brussels Treaty, less than ten years after the end of the second World War, was to allow all of them to take part in the military deployment of the Atlantic Alliance, which implied controlled limitations on forces and armaments. They considered the participation of Parliaments in super-

vising these activities would make such verification more reliable. Moreover, those in favour of building Europe were anxious to give Europe institutions corresponding to the same democratic ideals as those of national institutions and they wished European organisations with a political vocation to be given a body in which parliamentarians had their place. The authors of the Treaty, after defining the Council's responsibilities in Article VIII, consequently made it binding on the Council, in Article IX, to submit an annual report on its activities on 'an assembly composed of representatives of the Brussels Treaty powers to the (Parliamentary) Assembly of the Council of Europe', i.e. consisting of Parliamentarians who were members of the latter Assembly.

Since 1954, armaments controls have progressively become less important in the eyes of member countries as mutual confidence took hold among countries increasingly committed to the building of a European Union with very broad responsibility. Conversely, European co-operation in security, defence and armaments matters became increasingly wide-ranging, allowing WEU, and hence its Assembly, to be enlarged in 1990 to include Portugal and Spain. Greece acceded to the modified Brussels Treaty on 20 November, 1992 and its delegation to the Parliamentary Assembly of the Council of Europe will play a full part in the WEU Assembly once the protocol of accession has been ratified by the ten countries concerned. On the same date, Iceland, Norway and Turkey will become associate members of WEU, Denmark and Ireland being given observer status, although the consequences of these decisions for the participation of delegations from those countries in the WEU Assembly has not yet been made clear. Finally, the WEU Assembly welcomes to its sessions parliamentary observers from an ever-growing number of European countries. It grants them the right to speak but they are not entitled to vote. Thus, while it is composed of 108 representatives and the same number of substitutes from the Parliaments of nine countries, the WEU Assembly is becoming the forum in which parliamentarians from all over Europe meet at its two annual part-sessions to examine together the problems raised by the security of Europe as a whole. Its natural interlocutor is the WEU Council which now receives representatives of the Governments of member, associate and observer countries who hold meetings with

representatives of eight countries from the eastern part of the Europe.

From the very start, the WEU Assembly's idea of its role has been quite broad in scope. It has not confined itself to approving or, if appropriate, disapproving the annual report of the Council, *i.e.* to scrutinizing the activities of the Council; by adopting recommendations addressed to the Council or resolutions addressed to the Governments, it has exercised a stimulating role *vis-a-vis* European security and defence policy that has become essential. Its political Committees (Defence Committee, Political Committee, Technological and Aerospace Committee, Committee for Parliamentary and Public Relations) prepare, for each Session, reports on the principal topical questions in the areas within their purview. These reports analyse the situation and set out the reasoning behind the operative texts which are submitted to the Assembly for a vote. The preparation of these texts requires in-depth inquiries by rapporteurs and Committees and, as far as possible, these inquiries are carried out on the spot, thanks *inter alia* to exchanges of views with Parliaments and authorities in the countries concerned. The complete set of WEU Assembly reports therefore gives quite a full picture of European defence activities over a forty-year period and is a source that is highly appreciated by many researchers.

The Assembly's Charter guarantees it considerable independence of the Governments since it is in control of its own Rules of Procedure, appoints members of its Secretariat, draws up the agenda and order of business of its Sessions and even has some degree of budgetary autonomy within the overall budget granted by the Council.

It may therefore be thought that the modified Brussels Treaty, defining very strict mutual assistance commitments between member states, was the first defensive alliance treaty to grant such a prominent place to an international parliamentary institution. At the same time, it paved the way for a concomitant move by states towards increasingly wide co-operation leading to the establishment of a European Union, including defence matters. Article J.4 of the Maastricht Treaty on European Union of 11 December, 1991 specifies that WEU 'is an integral part of the

development of the [European] Union' and requests it 'to elaborate and implement decisions and actions of the Union which have defence implications'. The Assembly now has to ensure that the enlargement of WEU and the extension of its activities do not lead to a relaxation of its procedures which might undermine the authority that it has acquired thanks to the stringency with which it was managed to apply the powers assigned to it by the Treaty.

PARLIAMENTARY DEMOCRACY IN GERMANY

Leni Filscher

The current German *Bundestag* is the 12th Parliament in the history of the Federal Republic of Germany, which began in 1949. At the same time, it is the first popular assembly to be freely elected in the whole of Germany following German unification on 3 October, 1990. Unification has not affected the position of the German *Bundestag* and the tasks assigned to it under our Constitution. Politically, however, Parliament faces new challenges; now that Germany has been unified under constitutional law, German unity must be completed by bringing about uniform political, social and economic living conditions throughout the federal territory. This does not mean, however, that European and foreign policy concerns are forgotten. The German *Bundestag* is aware that Germany is expected to help solve a wide range of problems relating, for example, to the consequences resulting from the end of the East-West confrontation, the process of increasing European integration, the prevention of armed conflict and other disasters and the need to safeguard the future of our planet in economic and ecological terms.

The German *Bundestag* is the popular representation of a parliamentary form of Government. The formation and composi

tion of the Federal Government is also decided through parliamentary elections. In the elections, every voter may cast two votes. With the first votes half the Members are elected, one candidate in each of the 328 constituencies. The person obtaining more votes than any other candidate is elected. The second votes determine the other half of the Members of the *Bundestag*. They are cast for lists drawn up by the political parties. This electoral system combines the advantages of majority voting with those of proportional representation. It guarantees that the distribution of seats among the individual parties corresponds to their share of the total vote.

In order to avoid Parliament being fragmented into a host of parliamentary groups, groupings and individual Members and to increase the chances of forming stable majorities, only parties which have obtained at least 5 per cent of the second votes may be represented in Parliament. By way of exception, it was sufficient in the first all-German elections of 20 December, 1990 to clear this hurdle in either East or West Germany. These elections endorsed the governing coalition made up of the Christian Democratic Union/Christian Social Union (CDU/CSU) and the Free Democratic Party (F.D.P.) under Chancellor Helmut Kohl.

Three parliamentary groups are currently represented in the German *Bundestag*. The CDU/CSU has 318 of the 662 seats, the F.D.P. 79 and the opposition Social Democratic Party of Germany (SPD) 239 seats. On account of the above-mentioned exception to application of the 5 per cent clause throughout the federal territory, two groupings are currently represented in the *Bundestag* which have far fewer than the 34 Members required to form a parliamentary group under the Rules of Procedure. The German *Bundestag* has passed a resolution expressly permitting the 15 members of the PDS/Left List, the successor to the Socialist Unity Party of Germany in the former GDR, and the 8 members of Alliance 90/The Greens to participate in parliamentary work in a similar way to parliamentary groups.

Parliament elects the head of Government, the Federal Chancellor. The parliamentary majority supports the Government and its policies. Almost all members of the Government are Members of Parliament as well. As a result of this link between the Government and the parliamentary majority, the Government and Parlia-

ment do not confront each other as antagonistic organs of state, as would be the case under the separation of powers as traditionally understood. On the contrary, parliamentary control of the Government largely takes the form of the Opposition expressing criticism and making proposals of its own. The members of the two majority parliamentary groups are not of course uncritical of the Government either. However, their examination of Government policy mostly does not take place through speeches in the plenary chamber or Bills and motions and other measures covered extensively by the media. Rather, they exert influence on Government policy through the opinion-forming process in the majority parliamentary groups and through manifold contacts with the members of the Government and with the Ministries.

In addition to the formation and control of the Government, the deliberations on and adoption of the budget and the public discussion of important political issues, one of Parliament's most important functions is to pass laws.

Under our Constitution, all important matters must be governed by laws, particularly where citizens' basic rights are affected. The Government may issue ordinances which directly affect citizens only where it has been expressly authorized to do so in a law passed by Parliament.

Most Bills are introduced by the Government, since in the Ministries, it has at its disposal the specialist knowledge and staff needed to prepare Bills. Bills may also be introduced by the *Bundesrat*, which represents the 16 *Laender*, or federal states, of the Federal Republic of Germany and by Members themselves. However, it is not possible for an individual Member to introduce a Bill on his own. Rather, Bills introduced by individual parliamentarians must be backed by a parliamentary group or by at least 5 per cent of all Members. This requirement keeps the total number of Bills introduced within limits. At the same time, however, it also ensures that a Bill that has been introduced can be dealt with in the plenary and in Committee. This does not only apply to Bills introduced by the Government or the majority parliamentary groups. Bills introduced by the Opposition also pass through the usual stages of parliamentary deliberation, *i.e.* a first reading in the plenary, a Committee stage and the final debate in the plenary.

The timetable and agenda of plenary sittings are not determined unilaterally by the majority. As a rule, all the parliamentary groups reach an agreement on the agenda, the order in which items are to be discussed and the time set aside for each debate. The conflicting interests of the ruling majority, which wants to implement the Government's programme and state its political views, and the Opposition, which wants to express criticism with the aim of influencing public opinion and to present alternatives, are reconciled in the process. During plenary debates, which are subject to certain time limits, both the majority and the minority are given adequate opportunity to speak. A special sitting of Parliament takes place if either a minority of one third of all Members or the Federal Chancellor so demands. Every parliamentary group may demand that a one-hour debate on a topical issue be included in the agenda of an ordinary sitting day.

The above-mentioned examples make it clear that the existence of parliamentary minorities is not only recognized but that certain rights ensure their participation in parliamentary work. In a parliamentary democracy, decisions are ultimately taken by a majority, which does not mean, however, that the solution chosen is the only right one. Citizens can be expected to accept the decision taken only if parliamentary minorities have had sufficient opportunity to express their views and influence the opinion-forming process in the majority parliamentary groups. This basic idea is reflected in the structures and procedures of the *Bundestag*.

It would be pertinent here to cite a few examples which seem to be typical. The composition of permanent Committees and other Bundestag bodies is in proportion to the relative strengths of the parliamentary groups. This principle also applies to the appointment of Committee Chairmen. In Committees, whose meetings are usually not open to the public, a third of the Committee Members may demand that a public hearing of experts, interest groups or other persons familiar with the subject be held on a Bill or other matter. After it has concluded its deliberations, the Committee submits to the plenary a recommendation that the Bill be adopted as it stands or in an amended form, or be rejected. The reasons for this recommendation must be stated in the accompanying report, which also reflects the views of the minority. The various rights to put questions, which are defined in greater detail

in the Rules of Procedure, enable either individual Members or a parliamentary group to ask questions which the Government has to answer. The Rules of Procedure also lay down procedures enabling a debate to be held on the reply of the Federal Government.

The parliamentary instruments mentioned with respect to minority rights are, of course, also used by the majority parliamentary groups. This also applies to Committees of Inquiry, which the German *Bundestag* is obliged to set up if a quarter of its Members so demand.

Participation of the German *Bundestag* in the Inter-Parliamentary Union.

The German *Bundestag*'s role in the foreign policy field is not restricted to the ratification of international treaties and scrutiny of the Government's foreign policy activities; rather, Parliament actively helps shape German foreign policy through its wide variety of international contacts.

The German *Bundestag* is represented in numerous inter-parliamentary bodies, such as the North Atlantic Assembly and the Parliamentary Assembly of the Council of Europe. In this connection, special importance attaches to the Inter-Parliamentary Union, the only global organization of parliamentarians which actively promotes peace and international co-operation.

Since 1951, the German *Bundestag* has been a member of the Inter-Parliamentary Union. All 662 Members of the German *Bundestag* belong to the German group in the IPU. The President of the *Bundestag* is the Head of the group. At the beginning of every legislative term the German delegation to the IPU is formed, which currently comprises 20 Members. At the same time the Head of the delegation is elected, who heads the German delegation at Inter-Parliamentary Conferences. As a rule, the members of the delegation take turns in attending the various Inter-Parliamentary Conferences in line with their interests. The eight participants in each Conference are appointed in line with a formula which takes the relative strengths of the parliamentary groups in the German *Bundestag* into consideration.

The German delegation considers the IPU to be an important forum for global political and parliamentary dialogue and has therefore always actively participated in the IPU and its various bodies. Moreover, the Head of the German delegation is a member of the Executive Committee, which ensures that in future too German parliamentarians will support the aims of the IPU and actively help shape its policy.

The German delegation actively seeks, *inter alia*, to assist the fledgling democracies in Central and Eastern Europe as well as in other parts of the world in setting up representative institutions on the Western model. At the same time, the German delegation endeavours to pass on the German Parliament's concept of democracy at IPU Conferences by informing colleagues from the new democracies about parliamentary structures and working methods in Germany. The German delegation also wants to develop the IPU into a parliamentary counterpart to the United Nations, so as to enable these two global organizations in future to complement each other even better in their international role and activities.

It is largely due to the efforts of the German delegation that the demands which the IPU addresses to Parliaments and Governments in its resolutions are examined at national level and that a large number of the IPU's recommendations are implemented. Thanks to its active participation in the IPU, the German delegation is, moreover, able in many ways to give fresh impetus to the work of the German *Bundestag* as regards its handling of international issues.

New Delhi, which is the venue of an Inter-Parliamentary Conference for the second time since 1969, will draw the attention of the international community to a country with which Germany maintains fruitful and friendly relations. This will be further confirmed by the 89th Inter-Parliamentary Conference.

THE NATIONAL CONGRESS OF CHILE

Sen Federico Vallejos de la Barra

As established by the Political Constitution of the Republic Chile is a democratic Republic and a non-federal State, in which there are three branches of authority, independent of each other: the Executive, represented by the President of the Republic; the Judiciary, represented by the Law Courts, and the Legislative, represented by the National Congress.

In Chile the parliamentary system is bicameral, that is, the National Congress is made up of two Chambers; the Senate and the Chamber of Deputies. Both take part in the law making process in accordance with the Constitution, as well as having further powers as established by the said Constitution and the Constitutional Organic Law of the National Congress.

The Senate

The Senate currently has 46 members, of which 38 are elected by direct vote and 8 are designated Senators.

Elected Senators represent the 19 Senatorial Constituencies into which the country is divided, with two Senators for each.

In order to be elected as a Senator one must be a citizen with the right to vote, have been resident in the respective region for two years before the election, have completed secondary education or the equivalent and be least 40 years old on the day of the election.

Elected Senators remain in the post for 8 years and there are election alternately every four years, that is to say, first of all there are elections for those Senators representating odd numbered Regions and then, four years later, for those representing even numbered. Regions and the Metropolitan Region. In order to comply with this stipulation, those Senators who were elected to represent odd numbered Regions in 1989 will, on a one off basis, remain in their posts for only four years.

Ex-Presidents of the Republic, who have served for six years continuously in that post, are automatically entitled to serve as Senators for life.

The Senate also includes the following: two ex-Ministers of the Supreme Court and an ex-Comptroller General of the Republic, elected by the Supreme court; an ex-Commander-in-Chief of the army, of the Navy, of the Air Force and ex-Director General of the Police Force, elected by the National Security Council; an ex-Rector of a state University or a University recognized by the State and an ex-Minister of State, designated by the President of the Republic. These Senators remain in their post for eight years and, likewise, are designated every eight years, in the fifteen days following the corresponding elections for Senators.

The Chamber of Deputies

The Chamber of Deputies is made up of 120 members elected by direct vote, representing the 60 Constituencies into which the country is divided, with two Deputies for each.

There are no designated Deputies.

The conditions for being eligible to be elected as a Deputy are the same as those for Senators, with the exception that the minimum age is only 21.

Deputies remain in their post for four years, with there being elections for whole of the Chamber at the end of each

legislative term.

Senators and Deputies can be reflected indefinitely.

The following cannot stand as Senators or Deputies: (i) Ministers of State; (ii) Regional Governors, Local Governors, Mayors and members of Regional Councils and Local Councils; (iii) Members of the Board of the Central Bank; (iv) Magistrates in the High Courts of Justice, other Judges and officials holding Public Office; (v) Members of the Constitutional Tribunal, of the Electoral Tribunal and of the Regional Electoral Tribunals; (vi) The Comptroller General of the Republic; (vii) People holding senior posts in trade unions or community organizations; and (viii) Individuals and managers or administrators of legal organizations who enter into or guarantee contracts with the State.

The posts of Deputy and Senator cannot both be held at the same time, nor can they be held together with any job or commission paid for by the State, by Local Government, by autonomous governmental or semi-governmental organizations, or by state companies. Teaching posts and similar employment in, secondary and special education are exempt from this regulation.

Deputies and Senators are only protected by parliamentary immunity for the opinions which they express and the votes they cast in the course of their duty, in a parliamentary sittings or in Committee meetings.

No Deputy or Senator may be tried or deprived of his freedom, other than when caught in the act of committing a criminal offence, unless the Court of Appeals of the respective authority unanimously upholds the charge, declaring there to be grounds for proceeding with the case. From that moment, the accused parliamentarian would be suspended from his post and instructed to appear before the appropriate judge.

Should a Deputy or Senator be caught in the act of committing a criminal offence, he would immediately be put at the disposition of the respective Court of Appeals, together with the corresponding information relating to the case against him.

The Constitution lays down various grounds whereby Deputies and Senators may forfeit their posts. Thus they cannot, amongst

other things, be absent from the country for more than thirty days without the corresponding permission. They cannot enter into or guarantee contracts with the State nor can they act as lawyer or attorney in trials against the State. Nor can they incite public unrest or bring about changes in the institutional legal system through means other than those laid down by the Constitution itself.

Functioning of the Congress

The National Congress has an ordinary term of sittings and an extraordinary term. The ordinary legislature begins on 21 May and ends on 18 September each year.

The President of the Republic can convene an extraordinary legislature during the last ten days of the ordinary term or during the parliamentary recess (from 19 September until 20 May the following year). When convened by the President of the Republic, the Congress can only deal with legislative affairs or with international agreements which the former included at the time of convening it, without prejudicing the passing of the Budget Law and the authority of both Chambers to exercise their exclusive powers.

If the Congress is not convened by the President of the Republic, it can convene an extraordinary legislature itself through the President of the Senate and with the written request of the majority of the members of each of its Chambers. When convened by itself, the Congress can deal with any matter within its power. The Congress is always considered to be convened, in any form, in order to analyse the declaration of a state of siege.

Neither the Chamber of Caputies nor the Senate can sit or pass resolutions, without the presence of at least a third of their members.

The powers to participate, as the Legislative, in the law-making process, to approve or reject international treaties presented before their ratification by the President of the Republic and to make pronouncements regarding the declaration of a state of siege are exclusive to the National Congress.

Legislative Procedures

The lawmaking process can begin either in the Chamber of Deputies or in the Senate, whether it originates from the President of the Republic or from a Motion presented by any Parliamentarian, which cannot be signed by more than ten Deputies or five Senators.

Bills which deal with taxes, public expenditure or military recruitment can only be drawn up by the Chamber of Deputies. Laws relating to amnesty and pardons in general can only be drawn up by the Senate. Likewise, there are areas which are the exclusive domain of the President of the Republic.

Functioning of the Senate

Once a bill has passed through both Chambers, it is presented to the President of the Republic who, if he is in agreement with it, will order its enactment as law. If the President of the Republic is not in agreement with the bill, he will return it to the Chamber where it was drawn up with any comments which he deems necessary. If both Chambers approve the comments the bill will become, in effect, law and will be submitted to the President of the Republic for its enactment as such. If the Chamber do not agree with some or all of the comments and at least two thirds of their members present insist on maintaining all or part of the bill originally passed by them, then the bill will be submitted to the President of the Republic for its enactment as law.

On 11, March in the year following a parliamentary election, there will be a meeting, in the Chamber of the Senate, of the Senators whose term of office does not end on that day, of individuals whose election has been approved by the electoral Tribunal and of Senators designated in accordance with article 45 of the Political Constitution of the Republic in order for the Senate to constitute itself and to elect a President and Vice-President, who form the presiding committee. The President of the Republic, the Chamber of Deputies and the Supreme court are informed of these appointments.

Once recently elected and recently designated Senators have been approved by the Electoral Tribunal, the presiding Senator will swear an oath, before the Secretary of the Senate, followed by

the rest of the Senators joining the Upper Chamber who will do so before him.

In accordance with the Constitution, if the President elect is unable to take office then the President of the Senate will take over in the meantime, with the title of Vice-President of the Republic.

The Senate can only sit or pass resolutions when at least one third of its members are present.

Each meeting which the Senate or the Plenary Congress (both Chambers together) holds is known as a sitting.

If at the stipulated time there is not a quorum in the Chamber, the sitting is cancelled by means of a declaration by the President of the Senate or, in his absence, by the Secretary of the Senate, putting on record the names of those present and publishing them.

Sitting can be Ordinary, Extraordinary and Special. Likewise they can be public or secret.

The public may observe sittings, which are not secret, from the gallery in the Chamber, provided they do not hold demonstrations there. Should they do so, the President of the Senate can have them removed.

During sittings in the Chamber, Senators deal with matters within their power, amongst which are the discussion, approval or rejection of bills submitted for their consideration, following the report from the respective Committee(s), should the bill not have been exempt from that stage.

Five Senators sit on the Standing Committees and Select Committees of the Senate. The Committee for internal Administration, which supervises the internal and administrative working of this branch of the Congress also includes the President and Vice-President of the Senate.

Committees

The list of Standing Committees of the Senate is as follows:

1. Government

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- 2. Foreign Affairs**
- 3. Constitution, Legislation, Justice and Regmentation**
- 4. Education**
- 5. Economics and Trade**
- 6. Finance.**
- 7. National Defence**
- 8. Public Works**
- 9. Agriculture**
- 10. Environment and State owned Property**
- 11. Transport and Telecommunications**
- 12. Mining**
- 13. Health**
- 14. Employment and Social Security**
- 15. Housing and Urban Renewal**
- 16. Human Rights, Nationality Citizenships**
- 17. Fishing and Agriculture**
- 18. Internal Administration.**

The Senate can order a subject to be studied by two or more Joint Committees, appoint Special Committees or recommend the designation or recommended the designation of Joint Committees of Senators and Deputies to study matters which they suggest. Likewise, it can call for the formation of Joint Committees of parliamentarians in cases covered by articles 67 and 68 of the Constitution, regarding the solving of difficulties encountered in the passing of a bill, as well as to study the Annual Budget Law for National Income and Expenditure.

Senate Committees are the bodies which liaise between the Presiding Committee and the Corporation for the handling of matters of which the latter should be aware, with the Senator(s) of each political party forming a Committee. A maximum of two

representatives are designated. Three or more independent Senators can form a Committee and any independent Senator can join individually the Committee of his choice.

The Senate has the powers which are expressly stated in the Constitution and which, in accordance with the latter, it is granted by law. These are, basically, those covered by article 49 of the Constitution, those which are the responsibility of the Congress where the Senate's participation is called for, stated in Article 50, and its participation where necessary in constituent and legislative affairs, as laid down by Chapters V and XIV, respectively, of the Supreme Law.

In order to carry out its duties and comply with its legislative tasks, the Senate has at its disposal secretariat staff, staff to draft and publish the official records of proceedings, in Information Office, a Treasury's Office and an Administrative Office. The Head of the Service is the Secretary of the Senate, who is the Head of the Office, and who is responsible for the smooth running of all the services and for the employees of the Upper Chamber, and for the effects of internal Reglementation, he holds the position of notary. He is followed by the Prosecretary who, in turn, is the Treasurer of the Senate.

Functioning of the Chamber of Deputies

On 11 March, following a parliamentary election, individuals whose election as Deputies has been approved by the Electoral Tribunal, meet in the Chamber. The Deputy elect who most recently held the post of President or Vice-President of the Chamber opens the session, in the capacity of Provisional President.

After the oath to carry out his duties faithfully and legally, which each Deputy must swear, the Presiding Committee of the Chamber is elected, comprising a President, first, a Vice-President and second, a Vice-President. Once elected the Presiding Committee will remain as such until the end of the corresponding legislative term. Should one or all of the posts fall vacant, they will be filled for the remaining period.

Constitutionally the President of the Chamber of Deputies follows the President of the Senate in the order of superiority for

standing in for the President of the Republic, when the latter is unable to perform his duties or when a President-elect is unable to take office.

The Chamber of Deputies can only sit and pass resolutions when at least one-third of its members are present.

Each meeting held by the Chamber or any of its Committees is termed a sitting. If at the stipulated time there is not a quorum in the Chamber, there can be no sitting and those Deputies not present have part of their salary deducted.

There is a public gallery in the Chamber for sessions which are not secret. It is strictly forbidden to carry out any kind of demonstration during sittings, and should this happen the President of the Chamber can order the public to be removed from the gallery.

Deputies meet together during sittings in the Chamber to deal with legislative and other affairs which are the responsibility of the Chamber of Deputies. It is then that they pass or reject bills which are submitted for their consideration, after having been studied by the appropriate Committee.

Committees are made up of thirteen Deputies, designated proportionally in accordance with the number of seats held by each political party. These Committees have been set up in accordance with specific areas, there being a certain relationship and similarity with the Ministries into which the Executive is organized.

Committees

The Committees of the Chamber of Deputies are as follows:

1. Domestic Policy, Regionalization, Social Planning and Development.
2. Foreign Affairs, Inter-parliamentary Affairs and Latin American Integration.
3. Constitutional Affairs, Legislation and Justice.
4. Education, Culture, Science and Technology, Sports and Recreation.

5. Finance.
6. National Defence.
7. Public Works, Transport and Telecommunications.
8. Agriculture, Rural and Marine Development.
9. Natural Resources, State-owned Property and the Environment.
10. Health.
11. Employment and Social Security.
12. Mining and Energy.
13. Economics and Development Projects.
14. Housing and Urban Development.
15. Human Rights, Nationality and Citizenship.
16. International Administration and Reglamentation. In addition to the thirteen Deputies corresponding to it, this Committee also includes the members of the Presiding Committee of the Chamber of Deputies.

Select Committees, which have the authority and sit for the term fixed by the Chamber of Deputies when they are formed, can also be appointed. There are also the Joint Committees, made up of an equal number of Senators and Deputies, who purpose the ways and means of solving differences of opinion between the two Chambers which arise during the passing of a bill. *

Within the internal organization of the Chamber of Deputies there also exist the so-called Parliamentary Committees, made up of nine Deputies. The purpose of these Committees is to facilitate relations between the Presiding Committee and the rest of the Deputies, and to ensure that matters submitted for consideration by the Chamber of Deputies are dealt with as efficiently as possible.

The National Congress and its History

The powers to oversee the actions of the Government and to declare if there are grounds for indictments—known as Consti-

tutional Indictments—which are brought against the President of the Republic, Ministers of State, Magistrates in the High Courts of Justice, the Comptroller General of the Republic, General and Admirals of the Armed Forces and of the Police Force and Regional Governors and Local Governors, are exclusive to the Chamber of Deputies.

Deputies are assisted in their legislative and overseeing tasks by the staff of the Chamber of Deputies, made up of civil servants with professional ability and technical training. The Head of the Service is the Secretary of the Chamber of Deputies, who is followed by the Prosecretary and the Head Secretary of Committees. These posts are the culmination of a career in the civil service, and appointment to them requires the approval of the Chamber.

On 14 December, 1989, after an interruption of 16 years. Chile renewed its former democratic tradition. Those citizens entitled to vote and appearing on the electoral Register elected a President and representatives to the Parliament, thus exercising their sovereign right to vote, something which by its very nature constitutes the essence of any democratic system.

The purpose of parliamentary elections is to ensure that all the different political tendencies are represented and participate in the running of the National Congress.

History has shown us that there can be no democracy without a Parliament and that this institution which is fundamental in political life has its roots in the attempts to increase political participation and to ensure the better use of political power.

From very beginning of the process of Independence, the institution of the National Congress in our life as a Republic reflected the old Hispanic traditions, which date from the first Spanish municipal charters and from the work of Saint Isidoro of Seville. Already in the twelfth century there were Parliaments in Aragon (1163) and in Leon (1188), made up of noblemen, clergymen and the bourgeoisie, which functioned as consultative bodies, and which had an ever-increasing influence, especially in the fixing of taxes, in the limitation of royal power.

Indeed, when on 18 September, 1810, in the Court Room of the Consulate, the Attorney-Senator of the city of Santiago, Jose Miguel Infante, took the floor in order to outline the need for forming a Governmental Council he did so by making use of the oldest legal traditions of the Peninsula. He pointed out that since the throne was not occupied, because of the usurpation by Napoleon in 1808, the power held by the legitimate monarch who had been deposed, returned to the people and thus they could elect their own representatives, following the example of the Council of Cadiz.

That very idea was embodied in the Official Record of that meeting, stating that the power to rule would rest with said Council, "whilst Delegates from all the Provinces in Chile were summoned and made their way to Santiago, to organize a system of government thereafter".

Thus it was that on 15 September, 1810, an election was called for Deputies to the National Congress. By March 1811, the election of Deputies had been held for the whole country, with the exception of Santiago and Valparaiso. In Concepcion the Royalists triumphed, and they showed no desire to introduce changes in the political system; in the rest of the country the votes were more evenly spread. Santiago was to be the deciding Province, and in the elections there on 6 May, it was those in favour of independence who triumphed.

The death of Mateo de Toroy Zambrano, in February, 1811, paved the way for the groups in favour of independence, led by Juan Martinez de Rozas, to take power. It was thus that, on 4 July, 1811, the solemn opening of the National Congress took place. A mass held in the Cathedral of Santiago, with a sermon given by Friar Camilo Henriquez Gonzalez, and the solemn oath sworn by the new Deputies, brought to an end the First Council.

From that moment onwards, the Government and the legislative power centred around that group of Deputies, causing an upheaval in the administration of the country. Not all were in favour of the changes that had to be made in order to achieve independence. The realization that power could not be administered by so many, led the Congress, on 11 August, 1811, to elect an Executive Council made up of three members.

The arrival of Jose Miguel Carrera speeded up the process of independence, but it finally led to the coup of 15 November and the dissolution of the Congress and the creation of a new Council.

Provincial Assemblies and a Parliament suited to a federal system, were created by the Constituent Congress held in 1826. The Provincial Assemblies only survived for a short time and disappeared altogether following the introduction of the 1828 Constitution, which reinforced the bicameral system. From then on legislative terms, consisting of four years, were numbered, with the present being the XLVIII Legislative Term.

The bicameral system — a Senate and a Chamber of Deputies—was re-affirmed by the 1925 and 1980 Constitutions. The geographical electoral base was modified by the 1980 Constitution. The geographical electoral base was modified by the 1980 Constitution with the creation of Electoral Districts for the election of Deputies of Senatorial Constituencies for the election of Senators. It also reduced the number of Deputies from 150 to 120 and that of elected Senators from 50 to 38.

This brief outline of the beginnings of the National Congress, is only intended to highlight the presence of this institution from the very beginning of the Republic. Since then the Congress has played a fundamental role in promoting peaceful co-existence, and it has served as a forum for the most varied ideological and social tendencies.

THE CZECH REPUBLIC

Petr Necas

The Czech Republic is situated in the western part of the former Czechoslovak federation, neighbouring with Germany, Austria and Poland. The Czech Republic covers an area of 78,000 square kilometres with the population exceeding 10 million.

Historical Outline

Although the Czech Republic has never existed in modern times as an independent State, its roots go back nearly 1,000 years. Since the time of Prince Wenceslas in the 10th century, the Czech lands have been an integral part of Western Christianity.

The Czech kingdom, created in the 12th century, has survived with its constituent parts of Bohemia and Moravia, although as a part of larger entities. Having absorbed various influences, the Czech kingdom rose to the centre of European politics in the 14th century when the Czech king Charles IV of Luxembourg ruled over the Holy Roman Empire from Prague.

In 1620, the Czech kingdom fell under the control of the Habsburg monarchy. During the National Revival in the first half

of the 19th century, the Czech lands became the industrial engine of the Austro-Hungarian empire and Czechs experienced a burgeoning civil and political life.

With the demise of the Austro-Hungarian monarchy and the influence of the victorious allied powers after World War I, the time came for an independent Czech State. However, due to geopolitical considerations as well as ethnic proximity, the Czechoslovak Republic was established by the Czechs and their neighbouring Slovaks, who had lived under Hungarian domination for centuries.

Under the leadership of T.G. Masaryk and later Edward Benes, the new Republic experienced remarkable democratic development and economic growth, ranking among the ten most industrial countries in the world. The "Czechoslovakist" ideology of a single Czechoslovak nation, however, did not prove viable and the Slovaks, as is the case today, never felt at home in the Republic.

After 20 years, the Republic fell victim to the Nazi expansion; Bohemia and Moravia were annexed to Germany, while Slovakia became a separate State under German control.

With Germany's defeat in World War II, the Czechoslovak Republic once again returned as an independent State. Under the Soviet umbrella, the Communists took power in a parliamentary coup in 1948. But during the 1960s, Alexander Dubcek propelled a reform movement inside the Czechoslovak Communist Party, emerging as compromise party leader. The August, 1968 Warsaw Pact invasion brought the reformist movement to an abrupt end. After the "Normalisation" policy to reassert Soviet control, the only gain remaining from the Prague Spring was the federalisation of Czechoslovakia into the Czech and Slovak Republics.

The Return to Democracy

In the following decades, only a handful of dissidents openly spoke out against the regime. But by the end of the 1980s, the economic crisis, the ascent of Mikhail Gorbachev in the erstwhile Soviet Union and the coming of age of a generation not crippled by the "Normalisation" policy, all contributed to the fall of the

Communist regime. In November 1989, the "Velvet Revolution" broke the Communist monopoly on power and Vaclav Havel was elected President.

After the first free elections since World War II in 1990, Czechoslovakia embarked on an ambitious programme of economic transformation, based on a stable market framework and rapid privatisation, as well as the building of democratic institutions and the rule of law. In 1991, Czechoslovakia signed an Association agreement with the European Community. It has also become a member of the Council of Europe, the most visible sign of the irreversible democratic development in Czechoslovakia.

Current Developments

In June, 1992, following the elections in the Czech Republic, a new Government led by the liberal economist Vaclav Klaus, the architect of the Czechoslovak economic reform was formed. In this second election, Czech voters again affirmed their commitment to continued democratic transformation and their desire for a stable, prosperous society.

Relations between Czechs and Slovaks began to suffer friction from the beginning of the democratic transformation. The Czech side, convinced of the advantages of a common State, strived to maintain a functioning federation. The election results, however, made it impossible to ignore that Slovak Statehood is an overriding goal for the majority of Slovaks. This position was accepted with regret by the Czech side.

In negotiations with its Slovak partners, the Czech Government worked hard to facilitate a smooth, constitutional transition of Czechoslovakia into two independent, closely co-operative States. The Czech Government's goal was to preserve as much of the integration as was compatible with the interests of the Czech nation.

The Czech and Slovak Governments concluded, during the fall of 1992, the whole package of bilateral agreements which range from the social sphere to tax and fiscal policy, and include a customs union between the two Republics.

The Federal Parliament approved on 25 November, the Constitutional Act on the dissolution of the CSFR providing that Czecho-

slovakia would cease to exist after 31 December, and both the Czech Republic and the Slovak Republic would become its successor States.

On 16 December, the Czech National Council (Parliament) adopted the First Constitution of the Czech Republic.

The Parliament of the Czech Republic

The Parliament of the Czech Republic is composed of the Chamber of Deputies and the Senate.

The Chamber of Deputies consists of 200 members elected for four years. Currently, there are ten political clubs/caucuses/working in the Chamber of Deputies with the strongest one of the Civic Democratic Party having 63 members.

The Senate is still to be constituted. It will have 81 Senators elected for six years. The election to the Senate is every two years for one-third of the Senators who must be over the age of 40 years to be eligible for the election.

CONSOLIDATING DEMOCRACY AND THE INTER-PARLIAMENTARY UNION

C.K. Jain

The urge for democracy as the most acceptable political system is quite old. In India, one has heard of the village republics from ancient times. The Vedic period (Circa 3000-1000 BC) gives instances of popular assemblies and some sort of elective monarchy being in vogue in many parts of the Indian landmass. In the West one gets the reference of the Greek City-States. It seems that Rule of Law was given premium in both the ancient Indian and Greek societies. The civilisations have always been sensitive to human rights. Despite these persistent assertions of democratic values, the threat to freedom and political democracy continues to emanate from several sources and unless certain positive socio-economic conditions are created democracy will fail to become a living and lasting reality, both nationally and internationally. In successive generations of human civilisation, a reassertion has been made of the democratic values. Authoritarian regimes have been decried in the strongest possible way and have

been fought to their keel. Off and on movements for restoration of human dignity and freedom that forms the kernel of democracy, have shaken the nook and corner of the world. Most recently, the world has seen an awakening in the values of democracy as evinced through the movements for human freedom and democratisation in the erstwhile Soviet Union and the Central and East European countries. Thus in a way, democracy seems to have proved its time-tested validity as the most cherished form of government throughout human history.

More people today live longer, healthier and more productive lives than at any time in recorded history. But the gains have been inadequate and uneven. According to the World Development Report 1992, more than one billion people are living in abject poverty. Concentration of poverty has been most glaring in the developing countries where it is estimated that nearly 30 per cent of population lived below the poverty line in 1990. According to the same figures, nearly 24 per cent of the people in developing societies will still be living below the poverty line by the turn of the century.

Figures of poverty for the different regions of the world are conspicuously disheartening. Forty nine per cent of the population are stated to be living below the poverty line in the South Asian region in 1990. In the same year again 47.8 per cent and 25.5 per cent of the population were below the poverty line, respectively, in Sub-Saharan Africa and in Latin American and the Caribbean countries. By the end of the decade, about one half of the world's poor will be living in Asia and another one quarters in the Sub-Saharan Africa.

By the middle of the 20th century, the rate of population growth in developing countries had risen to unprecedented levels as mortality rate declined and life expectancy increased. World population growth peaked at 2.1 per cent a year during 1965-70, the most rapid rate of increase in history. Population growth has now slowed down to 1.7 per cent as more countries have begun a transition towards lower fertility. Even so, world population now stands at 5.3 billion and is increasing by 93 million a year. The next generation will see the world's population rise by 3.7 billion even if progress in reducing population growth accelerates. Most

of these people will be born into poor families.

In addition, there has been inadequate access to the resources — education, health services, infrastructure land and credit — required to give people a chance for better life. The essential task is to provide opportunities to hundreds of millions, so that they can reach their potential. While planning economic growth, we must, however, bear in mind that serious damage is not caused to the environment. Economic development and sound environmental management are complementary to each other. Without adequate environmental protection, development will be undermined and without development, environmental protection will fail. Countries need to choose policies that encourage more efficient use of resources and make adoption of technologies and practices that do less environmental harm. Such changes will ensure that improvements in human welfare which development process brings, are lasting.

Concern of IPU

The many-sided problems of the globe, however, have never gone unnoticed. A beacon of hope comes when we see a world wide concern coming from different sections of the world populace whether they are academicians, statesmen, leaders, parliamentarians and philanthropists towards these problems.

Global problems cut across barriers of regions and continents and require concerted action on the part of nations if they are to be solved effectively. As representatives of the people, parliamentarians have always had a special responsibility in this regard. The need of an Inter-Parliamentary Association as a co-operation-oriented agency of Parliamentarians to deal with common problems of nations have been felt long. It is in this regard that the role and significance of the Inter-Parliamentary Union (IPU) becomes a matter of special mention.

One of the oldest international organisations, the IPU, throughout the course of its existence, have not only addressed itself to certain key issues of global concern, but has come out with clear cut resolutions as means of their solution. Conceived in the peace movement of the 19th century, the IPU started basically as an organisation to find out peaceful solutions to mutual dis-

putes of nations through arbitration. As conflict can be managed through promotion of co-operation among nations, one of the important aims of IPU became the advancement of the cause of peace and security in international relations, through promotion of mutual understanding among nations. No other political system could perhaps be more congenial to peace than democracy, as it is in democracy that such values as compassion, consideration and respect for other's views and life could be promoted. Hence, one of the proffered aims of the IPU is the advancement of the cause of democracy the world over. Promotion of peace and democracy, however, are not empty ideals. They require the fulfilment of certain positive socio-economic conditions without which they remain ever elusive. The IPU, thus, could not help but addressing the questions of socio-economic suffering of the people at large. One of the persistent themes of discussions throughout all the hitherto IPU Conferences has been a general debate on the socio-economic situation of the world. Since 1979, six Conferences on themes linked to development have been organised by the IPU. These are: Conference of Parliamentarians on Population and Development in Colombo (August, 1979); Conference on Population and Development in the South-East Asian Region and on 'Health and Development in the South East Asian and Western Pacific Regions' in Bangkok (February, 1988); 'Health—A basis for Development in Africa' in Brazzaville (June, 1988); 'Employment in Africa' in Dakar (October, 1985); and 'Agricultural Development and Food Security in Africa' in Harare (December, 1986). One of the New Delhi in 1969 was 'Social Progress'. Issues of international security and rapprochement, of environment and development, of disarmament, drug trafficking, women's rights, children's issues and such other relevant concerns have been on the agenda of IPU Conferences from time to time.

On many other contemporary issues, the IPU has adopted specific resolutions from time to time enjoining upon its members their proper implementation. Article 8 of the IPU Statute makes it the duty of a National Group to submit the resolutions of the Union to its respective Parliament, in the most appropriate form; to communicate them to the Government; to stimulate their implementation; and to inform the Secretariat of the Union as often and fully as possible, particularly in its annual reports, as to the

steps taken and results obtained. This article froms the inherent strength of IPU.

However, despite all efforts and international concern to the contrary, human suffering is yet to be eliminated from the face of the world. The democratic ideals of human freedom and dignity are essential. But as long as inequalities in societies continue or some sort of gap persists between one and the other section of the society or between different parts of the world, threats to democracy will always be there.

The need, therefore, is to develop an awareness towards the universal goal of human well-being and equality. All political parties and national governments need to bear this in mind and must never make these subservient by any other consideration. In case of national governments, there must be a realisation that the art of governance involves an austere responsibility and that the governors of society are its servants. In case of the global comity of nations, there must be proper co-operation among nations. The resources of the planet are limited. Hence nations must endeavour for their optimum use through a spirit of sharing among themselves. Absence of sharing may involve concentration of resources in few hands to the detriment of the many which may in turn create global tension. National interest, therefore, must be in true reconciliation with the international humanitarian interest, for sufferings and deprivations world over are felt alike.

CODIFICATION OF PRIVILEGE

L.M. Barlin

For the purposes of this paper, codification is taken to mean the setting down in a precise and usually statutory form of the law relating to privilege and contempt.

Some believe very strongly that codification of parliamentary law is both wrong in principle and undesirable in practice. They may feel that it is inconsistent with the standing and authority of Parliament for members to feel compelled to set down in great detail the law relating to privilege and contempt. Further, and at a practical level, they may be concerned that condification would lead inevitably to a diminution in a House's power because broadly worded precepts would be replaced by precise statutory formulations. They are likely to ask whether the traditional provisions, even if they are couched in general terms and in somewhat antiquated phrases, have not served well and proven their value by standing the test of time.

On the other hand, it may be seen as inherently desirable for a modern Legislature to make the effort to think through exactly what the law should be in these matters and then spell out the requirements in precise terms. This may be seen as good

for the institution and its members and for others who are particularly interested in the work of the Parliament, such as persons involved in committee inquiries. Proponents of codification will say that the task is not likely to be any more difficult than some other drafting assignments and that in several non-Westminster style Parliaments the task has been accomplished successfully.

The whole conundrum has been summed up neatly by a former Australian Attorney-General, the Hon. T.E.F. Hughes, QC. When asked whether the House should attempt to define its privileges or whether it was preferable to leave them undefined and capable of definition case by case, Mr. Hughes answered:

This is a matter of political judgment. Perhaps it should be borne in mind, in making it, that codification... means the achievement of relative certainty at the price of a degree of inflexibility; whereas the continuation of the status quo means relative flexibility at the price of a degree of uncertainty...¹

This paper illustrates some of the issues arising in this area by reference to recent developments in Australia's Commonwealth Parliament.

The Commonwealth Parliament has not codified the law relating to privilege and contempt. Nevertheless, in 1987 important statutory changes affecting a number of traditional privileges were made — most importantly concerning the privilege of freedom of speech. In addition, other developments have occurred which have updated the arrangements relating to privilege. In some respects, these developments have amounted to a form of codification.

Constitutional Provisions

Australia's Constitution gives the Houses, their Committees and members, until the Parliament otherwise declares, the 'powers, privileges and immunities' of the United Kingdom House of Commons and its Committees and members as at the time of Federation (1901)². This constitutional provision mirrored provisions which applied in several other Parliaments in the Westminster tradition. It ensured that the Parliament operated with all the important privileges and protections that it needed. In many ways

the arrangements worked well. In the first several decades of Federation, few true privilege problems seem to have arisen—indeed it was not until 1944 that the House found it necessary to appoint a Committee of Privileges, and the Senate did not have such a Committee until 1966. Perhaps this demonstrates the wisdom of the remark in earlier editions of *May* to the effect that the distinctive mark of privilege is its ancillary character³.

Nevertheless, the 1970s and 80s saw a considerable increase in the number of claims relating to privilege and contempt raised in the House of Representatives. Several matters went to the Committee of Privileges and on some of these, especially two important cases involving the media, the Committee experienced some difficulty in evaluating complaints against the rich collection of precedents that had been accumulated. It recommended a comprehensive review of the law and practice relating to privilege and contempt in two reports.

Major review of law and practice

In March, 1982, a Joint Select Committee was established⁴ to review all aspects of the law and practice of parliamentary privilege. As is the practice in Australia, submissions were invited from any interested person, and the Committee received a great diversity of views from members, from media organisations and representatives, from academics and from interested citizens.

Question of codification

The issue of codification loomed large during the inquiry. Argument centred around the state of the law, and the ways in which complaints of breach of privilege or contempt should be handled. Mr. J.A. Pettifer, the then Clerk of the House of Representatives favoured major change, quoting the following views to the Committee :

The law is unnecessarily uncertain and gives neither members of Parliament nor the public adequate guidance on what their rights and duties are. Uncertainty exists not only because the law is inaccessible, but because parliamentary precedents are ambiguous and because the contempt power in some jurisdictions enables new offences to be created.⁵

Mr. Ronald Macdonald, a newspaper executive, stated:

(My) submission argues that the mechanisms for protecting the integrity of Parliament are no longer appropriate. Indeed, it may be argued that the confusion surrounding the application of parliamentary privilege, both in the public mind and among some media professionals, and the anachronistic methods of dealing with breaches may do more to damage the reputation of the Parliament than uphold it.⁶

On the other hand, the then Clerk of the Senate, Mr. Alan Cumming Thom stated:

...we are saying...that from the experience of being within the Parliament and with some concept of the Parliament looking after its own affairs, we think that the present situation, with some significant variations of procedures and so on, can adequately deal with the situation.⁷

This theme was echoed by Prof. G.S. Reid, a former officer of the House and a distinguished academic:

By and large the records of our elected Parliament in the exercise of its powers, privileges and immunities over eighty-two years deserve more than public denigration. Its record is worthy of acclaim, as well as criticism; that acclaim, however, should not give rise to self satisfaction or complacency.⁸

Codification not recommended but need for legislative changes and detailed guidelines accepted.

Changes concerning privileges and immunities

The Committee first considered the question of just what 'powers, privileges and immunities' were needed by the modern Parliament. It did not recommend that a statutory code be drawn up, and it did not want to displace the basic link with the powers, privileges and immunities of the House of Commons. But it felt some changes were necessary. One proposal was that the traditional duration of the immunities from civil arrest and from com-

pulsory attendance as witnesses should be reduced. The Committee also recommended the adoption of statutory provisions to remove the very substantial doubts that existed as to the power of Houses to impose fines, and that they be given powers to imprison persons for breach of privilege or contempt for periods not exceeding 6 months (in place of the traditional provisions which limited the duration of imprisonment to the length of a Session). Legislation was needed to implement all of these proposals.

Contempts

The Committee considered the area of contempts (or as it described them 'offences against a House') separately. On this question the Committee observed:

While the need for flexibility is undoubted, we think that we ought to go as far as possible in informing members of Parliament, and the community, of the more important matters that may be punished as contempts. The extensive, varied and rich collection of precedents of actions and omissions which have been held over the years to constitute contempt, particularly in the House of Commons, is not helpful to those who seek some reasonably clear guidelines. These precedents are not always easy to apply, they are not well known to members and others involved in the work of Parliament, and some are of doubtful relevance to the operation of today's Parliament.⁹

The Committee's solution was to propose that each House should adopt detailed resolutions to set down 'heads of contempt', which would spell out matters which may be punished as contempts. Such resolutions would not have the force of statute law, and could be varied if circumstances warranted it, but at least the Houses would be forced to review and set down just what sort of actions they would wish to be able to treat as contempts. The Committee concluded:

If the categories of contempt we now set out and the consequential recommendations are agreed, with the acknowledgment that they are made for guidance

only, Parliament will have taken an important step and one which must benefit the institution itself, individual members, and all involved with, and interested in, its work.¹⁰

The Committee put forward a detailed 15 part resolution it saw as covering virtually all possible areas of offence.

The Committee recommended that each House should retain responsibility for the consideration of complaints of breach of privilege or contempt, although it recommended a number of procedural changes—for example, that complaints should be raised in writing with the Presiding Officer in question (as had been the case in U.K. House of Commons since 1978 and also in New Zealand and in Victoria's Legislative Assembly), that witnesses appearing before the Committee of Privileges should be permitted to have legal assistance, and that hearings should be held in public except in special circumstances. A related recommendation was for the adoption of a 'policy of restraint' in the exercise of the penal jurisdiction, the Committee obviously being impressed by arguments on this matter first canvassed by the U.K. House of Commons Select Committee on Parliamentary Privilege in its 1967 report¹¹.

There was some dissent within the Committee on certain recommendations—this reflected the wide diversity of views among members generally on such matters, but the divisions in question did not fall along party lines.¹²

Action following the review

Whilst attempts were made to bring the recommendations before each House (such as the presentation of a Private Member's Bill by the Chairman of the Select Committee), no substantial progress was made. Nevertheless, members' attention was soon focused on another privilege issue. In 1985 and 1986, during trials of the late Mr. Justice Murphy and a Judge Foord, witnesses were permitted to be examined and cross-examined as to evidence that they had given to Senate Committees, comparisons were drawn between answers given in court and answers given in Committee proceedings and so on. In all, there were three trials (one having been aborted) and differing views were taken,

but the common thread was that arguments put by Counsel representing the President of the Senate in favour of the traditional interpretation of Article 9 of the Bill of Rights were rejected¹³. Naturally, the judgments in question, which were judgments of the New South Wales Supreme Court, were of considerable concern to some members and Senators. Whilst the immediate issues in these cases concerned witnesses who had appeared before Parliamentary Committees, it was realised that it could be held, in other circumstances, that members themselves were in no different a position. The judgments were seen as adverse to the interests of Parliament, and it was felt that only by legislation could the preferred, wide and traditional interpretation of Article 9 be guaranteed. Resolutions of either House would have no binding legal force, and any on-going conflict between the Legislature and the Judiciary was regarded as undesirable.

If legislation were to be introduced to reassert Parliament's view in this particular matter, it was felt that the opportunity should also be taken to give effect to those recommendations of the Joint Select Committee which needed to be implemented by statute. Accordingly, a Parliamentary Privileges Bill was prepared and, after consultation with interested members, was agreed between the President of the Senate and the Speaker of the House. In a very unusual step, but one which signified the importance of the measure in institutional terms, the Bill was presented in the Senate by President McClelland on 4 June, 1986¹⁴. It was passed by the Senate in October¹⁵, and sponsored in the House by Speaker Child¹⁶. It finally passed the House in March, 1987¹⁷.

Parliamentary Privileges Act

The Parliamentary Privileges Act, 1987 includes the following provisions:

- o the powers, privileges and immunities enjoyed by the Houses and their Committees and members by virtue of section 49 of the Constitution are to continue in force except as expressly varied by the Act;
- o a requirement that conduct does not constitute a contempt 'unless it amounts' or is intended or likely to amount to improper interference with the free exercise by a House or

Committee of its authority or functions or with the free performance by a member of the member's duties as a member—in other words a statutory threshold has been set;

- o the traditional category of contempt by defamation is abolished;
- o the Houses are given the powers to impose fines of \$5,000 or \$25,000 in the case of natural persons and corporations, respectively, and to imprison persons for up to 6 months;
- o a defence of qualified privilege is provided for reports of proceedings;
- o statutory provisions for the protection of witnesses are established, with very substantial penalties;
- o the immunities from arrest in civil matters and attendance before the courts as witnesses are reduced to sitting days and 5 days before and after sitting days, etc; and
- o doubts about the application of ordinary laws in Parliament House are removed (section 15).

Proceedings in Parliament

The most difficult, and in some ways the most important, issues dealt with in the Act are to be found in section 16. These deal with the definition of proceedings in Parliament. The section restates the applicability of the words of Article 9 of the Bill of Rights but goes on to provide that for the purposes of the section, 'proceedings in Parliament' means all words spoken and acts done in the course of or for purposes of or incidental to the transacting of the business of the House or a Committee, and it spells out some of the situations covered, such as the giving of evidence before a House or a Committee, the presentation or submission of a document to a House or a Committee and so on. The section then goes on to deal with the use of parliamentary proceedings in courts and other places—the matter that had been thrown up so dramatically in the Murphy and Foord trials. Subsection (3) provides that it is not lawful for evidence to be tendered, questions

asked, submissions, etc. made, by way of or for the purposes of questioning, etc. anything forming part of proceedings in Parliament, questioning or establishing the motives, etc. of any person, or drawing or inviting the drawing of inferences or conclusions from material forming part of proceedings in Parliament. Sub-section (4) deals with the use of in camera evidence, putting a blanket prohibition on its use in legal proceedings. Sub-sections (5) and (6) provide necessary exemptions to the rule against examining 'parliamentary proceedings' in courts. One exemption is when the High Court may be called on to determine a matter arising under section 57 of the Constitution (which comes into play when the Houses are deadlocked over legislation and which can be used to require a 'double dissolution' in respect of proposed laws). Another exemption is available to ensure that courts may have regard to parliamentary proceedings to assist in the interpretation of legislation, and a third exemption is necessary in respect of proceedings for offences against the 1987 Act itself, or against Acts establishing Committees.

A Private Member's bill was introduced on 17 September, 1992 to modify section 16 so as to allow a witness in court proceedings (*i.e.* a person not on trial) to be questioned about evidence given to a Committee. The member introducing the bill felt that section 16 had gone beyond what was necessary to give effect to the immunity deriving from Article 9. Some debate took place on the bill during the 1992 Budget sittings, but members who spoke were divided—some arguing strongly against the new proposal¹⁸.

Other developments akin to codification

The 1987 Act was followed in the Senate by the adoption of what has become known as the 'Privilege Resolutions' in February 1988¹⁹. One of these resolutions amounted to a form of codification. By it, the Senate adopted a detailed list setting out matters that the Senate might regard as contempts. This was in line with the Joint Select Committee's recommendation, although the detail was changed. The resolution listed 16 heads of contempt, but it was prefaced by the words:

That, without derogating from its power to determine that particular acts constitute contempts, the

Senate declares, as a matter of general guidance, that breaches of the following prohibitions, and attempts or conspiracies to do the prohibited acts, may be treated by the Senate as contempts.

The Senate also adopted procedures for the protection of witnesses before the Privileges Committee — these included giving witnesses the right to legal representation and to adduce evidence and a general rule that evidence should be taken in public. General criteria to be observed in the consideration of complaints were also adopted (along the lines of a policy of restraint, of recognition of the existence of alternative remedies and of having regard to intent and any excuse on the part of those accused of committing contempts).

Although draft resolutions were tabled in the House of Representatives, such resolutions have not been adopted by it, although in the day-to-day consideration of matters of privilege and contempt, the recommendations of the 1984 report have been useful. Successive Speakers have referred to the policy of restraint in the exercise of the penal jurisdiction and have effectively adopted such an attitude in their consideration of complaints²⁰. In addition, in the cases that have arisen since that time, the Committee of Privileges of the House has adopted new procedures—for instance, it has taken oral evidence in public when it has thought, it appropriate to do so. In addition, it has permitted witnesses to be accompanied by counsel or advisers, although the involvement of counsel has not gone as far as was recommended in the 1984 report, and counsel have not been permitted to examine and cross-examine witnesses and make general submissions, they have only been allowed to advise witnesses²¹.

Conclusion

It is too early to say whether the 1987 Act and related developments have generally been successful or not.

Changes regarded as essential or highly desirable have been made. The provisions of section 4 of the 1987 Act defining in statutory form the essential element of contempt, and the abolition of the previous category of defamatory contempt, must have helped to win now out some of the sorts of complaints which had

caused so much difficulty in the past—especially disputes between members and journalists.

On matter some may regret is that the Act effectively prevents reflections by members or others on the Speaker outside the House from being pursued as matters of contempt. This is a matter which has been canvassed in the House. The Act does not prevent complaints about such behaviour being raised in the House, and ultimately the House has powers in respect of members, however the difference now is that such criticisms, if they are merely defamatory statements about the Speaker or the Speaker's conduct, may not be pursued as matters of contempt²².

Another underlying anxiety is that certain provisions could cause the courts to intrude into parliamentary matters. For example, provisions of the Act deal with the protection of witnesses (although the traditional ability to punish such offences as contempts is retained). It could be that, should a person be charged under the Act, the circumstances of a committee inquiry, for example, could be called into question²³. This is certainly a possibility. In fact, it may be unlikely that there will be many actions at all under the provisions, the hope would be that their very existence would service to achieve their objectives. Also, the existence of similar provisions for many years in Acts establishing two important Committees—the Public Accounts Committee and the Public Works Committee has not caused any problems and may have had a beneficial effect at times.

Detailed resolutions, such as that agreed to by the Senate setting out matters that it may find to constitute contempts, can go a long way towards meeting the criticism that the law is both unclear and not easily accessible to those with an interest or a need to know. As a result of its 'privilege resolution 6—Matters constituting contempts'—those involved in the work of the Senate and its Committees have a concise statement of matters the Senate may hold to be contempts. The Senate's Committee of Privileges has a clear and authoritative statement of most areas of contempt likely to come before it. To date, this exercise does not appear to have hampered the Senate's ability to respond to matters arising in the area, and it is hard to envisage that any such resolution could ever have anything other than a beneficial effect.

References

1. Committee of Privileges Report (PP. 154 [1980], pp. 100-101).
2. Commonwealth of Australia Constitution, section 49. Particular acts dealing with parliamentary matters had been passed in earlier years — for example the Parliamentary Proceedings Broadcasting Act, the Public Accounts Committee Act, the Public Works Committee Act and the Parliamentary Papers Act.
3. *May* (20th ed.), p. 70.
4. *Votes and Proceedings 1980-83/805-6; Journals of the Senate 1980-83/884.*
5. Submission of Mr. J. A. Pettifer, Clerk of the House of Representatives.
6. Submission of Mr C. R. Macdonald of David Syme and Co. Ltd.
7. Submission of Mr A. R. Cumming Thom, Clerk of the Senate.
8. Submission of H.E. Professor G. S. Reid, (then) Governor of Western Australia.
9. Report of the Joint Select Committee on Parliamentary Privilege, October, 1984 (PP. 219 [1984], p. 133).
10. *Ibid*, p. 134.
11. H.C. 34 (1967), pp. xvi-xvii.
12. Two Senators submitted a dissenting report arguing against some of the recommendations, such as the proposed statutory definition of 'proceedings in Parliament'.
13. *R. V. Lionel Keith Murphy* (two trials); *R V. John Murray Foord*.
14. *Journals of the Senate 1986-87/1250-51.*
15. *Journals of the Senate 1986-87/1679-80.*
16. *Votes and Proceedings 1986-87/1525.*
17. *Votes and Proceedings 1986-87/1626,1627.*
18. H.R. Deb. (17.9.92) pp 1223-4; (8.10.92) pp. 1722-6.

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19. *Journals of the Senate* 1987-89/520,536.
20. H.R. Deb (9.11.83) 2461; H.R. Deb (29.4.86) 2698; H.R. Deb. (16.9.86) 759.
21. See, for example, report on Telecommunications Interception case (PP. 135 [1987]).
22. H.R. Deb. (9.10.90) pp. 2420-1, 2490-1, for example.
23. See also paper *Freedom of Speech under the Bill of Rights; recent developments in Australia* presented by Senator the Hon. K. W. Sibraa, 9th Conference of Commonwealth Speakers and Presiding Officers, London, July 1988, p. 13.

**AN HISTORICAL SURVEY OF
CANADA'S CONSTITUTION.
1960-1992**

Robert Marleau

Introduction

The principles, laws and conventions which are fundamental to the governing of a country are regarded as its constitution. Canada's Constitution is, in fact, a composite of written documents and conventions, many of which were inherent in the system of parliamentary government originally adopted from the United Kingdom and modified to suit a federal state. At the time of Confederation, Canada's primary constitutional document was the *British North America Act, 1867*. Since then, constitutional amendments, practices and agreements have been established to define the political dimensions and character of Canada and become what is acknowledged today as the Constitution of Canada.

There are currently five written components of the Constitution of Canada, the first being the *Constitution Act, 1867*, (originally entitled the *British North America Act, 1867*) together with subsequent amendments made to it. The Acts and orders

which brought new provinces and territories into the Canadian Confederation constitute the second component. The third consists of a series of Acts passed by the Parliament of the United Kingdom which do not relate to matters in either of the first two categories. The fourth is the Canada Act 1982, including the Constitution Act, 1982. Finally, the fifth component is a composite of all amendments made to all of the enactments referred to in the first four components.

Beyond these statutes are the situational rules or conventions which, although not legally enforceable, prescribe the manner in which such legal powers are exercised. The conventions which play a pivotal role in the constitutional framework of this country primarily pertain to the role of the Governor General, the Privy Council and Cabinet, the Prime Minister, the concept of responsible government, and the role of First Minister of the federal and provincial governments in amending the Constitution.

As a federation, Canada has always had to recognize and respect competing interests and a variety of views, attempting to balance them in a manner that is conducive to harmonious co-existence. The two most critical questions which any federation faces are the distribution of powers between levels of government and the constitutional amending procedure. As this paper will demonstrate, these are issues which repeatedly rise to the forefront and remain pivotal to the evolution of the Constitution of Canada.

1867 to 1960

Constitutional change in Canada has been an evolutionary process, one which has developed and manifested itself in a variety of ways since 1867. The changes which have occurred cannot be isolated and understood on an individual basis. Rather, they are inextricably linked, sharing elements with changes which preceded them and emanating from previously expressed ideas. A brief survey of early constitutional revision is important in understanding changes which have taken place since 1960, for it provides a backdrop against which to view the full spectrum of modern constitutional discussions.

The original constitutional document for Canada, the *British North America Act, 1867*, (herein referred to as the *Constitution Act, 1867*) was a statute of the Parliament of the United Kingdom forming the confederation of Canada. This document survived for the first several decades with minor change only. With World War I, concerns were raised about Canada's status as a Dominion of the United Kingdom and the concurrent dependency associated with it. The need and desire for national autonomy gathered momentum, fuelled by Canada's inability to amend its own constitution, a right primarily reserved for the United Kingdom. Constitutional independence, particularly with respect to the right to amend our own constitution, became a growing concern and the driving force behind constitutional discussion and change even in the early years.

Canada's federal system of government was established by the *Constitution Act, 1867*, providing for a central government and a government for each province. Federal legislative power was vested in the three constituent parts of the Parliament of Canada: the Crown (represented by the Governor General), the House of Commons, and the Senate. Sections 91 and 92 outlined the division of powers between the federal and provincial governments. Since a domestic constitutional amending formula was not included in the *Constitution Act, 1867*, the United Kingdom was implicitly retained as the primary authority for amending the Canadian Constitution.

This is not to suggest, however, that Canadian governments were completely powerless to amend their constitution. Rather, Canadian legislative bodies always had a limited amount of authority for amendment. In several parts of the *Constitution Act, 1867*, provision was made for statutory amendment by Parliament by inserting such words as "Until the Parliament of Canada otherwise provides". Thus, the salary of the Governor General as stipulated in section 105 of the *Constitution Act, 1867*, has been updated by the Canadian Parliament. Various Acts of the Parliament of Canada have also altered the number of Members of the House of Commons as stipulated in the Constitution. In addition, section 92 (1) of the *Constitution Act, 1867*, as originally drafted, granted the provincial governments the power to amend their respective constitutions, except with respect to the office of the

Lieutenant Governor. The Parliament of Canada was not delegated a corresponding power.

Notwithstanding these limited domestic amending provisions, constitutional law, as applicable to Canada, was technically alterable solely by means of an Act of the Parliament of the United Kingdom. It is important to note, however, that Canada exerted a greater degree of control over the destiny of its Constitution than was readily apparent. In fact, practice dictated that such Acts of the United Kingdom Parliament were passed only upon request of the Canadian government and that every request was indeed enacted.

Nonetheless, this indirect and unwritten authority proved insufficient. The need to modernize the Constitution was prompted by the maturation of the country and its need to control its own destiny. The issue of devising a domestic constitutional amending procedure was addressed collectively by the federal and provincial governments for the first time at a Dominion-Provincial Conference in November, 1927. Although no agreement was reached, the issues of patriation and a revised amending formula moved to the forefront of Canada politics.

Despite this initial disappointment, the need for change could no longer be denied and efforts at constitutional change were renewed intermittently. At a Dominion-Provincial Conference in 1931, governments again attempted without success to agree on an amending formula. The United Kingdom's Statute of Westminster, enacted during the same year, was seminal in recognizing the autonomy of its dominions, including Canada. However, it did not transfer the power to amend the Constitution to Canada. Instead, Canada remained dependent for this on the passage of an Act of the Parliament of the United Kingdom.

In January, 1935, a Special Committee of the House of Commons was established to examine the need for amending the *Constitution Act, 1867*, and an appropriate procedure for constitutional amendments. But the Committee failed to propose an amending procedure. The same year, at a Dominion-Provincial Conference, a sub-conference on constitutional questions was established, which recommended the creation of a Continuing Committee on Constitutional Questions. Convening in January, 1936,

they proposed an amending procedure which was never adopted. At this 1935-36 conference, four categories of amendments were identified: those affecting Canada only; those affecting Canada and one or more, but not all, of the provinces; those affecting Canada and all of the provinces which would need majority consent; and those affecting Canada and all of the provinces which would require unanimous consent.

An Address was passed by both Houses of Parliament in 1949 to empower the Canadian Parliament with the unilateral authority to amend its Constitution. The original *Constitution Act, 1867*, was amended by the Parliament of the United Kingdom accordingly. The amendment redressed the imbalance in authority between the federal government and the provinces as originally stipulated in the Constitution. However, with the many exceptions to this new rule, including those areas which had been assigned exclusively to provincial legislatures, Parliament's authority for amendment remained limited.

The following year, another constitutional conference was convened to consider proposals for procedures to amend the Constitution. Six categories of amendments were identified, expanding on the concept of the 1935-36 Conference. Although many proposals were espoused, including different formulas depending on the provision to be amended, no agreement was reached.

The 1960s

Another ten years passed before the attentions of the Canadian governments were collectively focused on perceived deficiencies in the Constitution. At this time a new age of constitutional change emerged as attempts were made to find viable solutions which were nationally acceptable.

In 1960, the hope that Canadian governments would soon be able to amend the Constitution was announced in the Speech from the Throne and reiterated at a Dominion-Provincial Conference in Ottawa on July, 26 by Prime Minister Diefenbaker. At the Conference of Attorney's-General, which met throughout 1960 and 1961, an amending formula was put forward which prescribed unanimity between Parliament and all of the provinces for some amendments but agreement between Parliament and those prov

inces affected by the amendment for others. Named after the then Minister of Justice, this proposal is referred to as the Fulton Formula. Acceptance of this particular amending formula was not forthcoming as some expressed concern about its rigidity.

The Fulton Formula was revived by the Pearson government in 1964 with certain modifications. On 14 October, 1964, at a Federal-Provincial Conference in Ottawa, it was agreed that the ultimate objective of devising a new amending formula was to ensure complete and exclusive power over amendment of the entire Constitution of Canada by the legislative bodies in Canada, acting either individually or collectively. Accordingly, an attempt was made to create this amending formula by integrating the power conferred on Parliament in 1949 into the formula proposed in 1961. Thus, in addition to the amending procedures outlined in the Fulton Formula, it was suggested that Parliament be given exclusive authority to amend the Constitution with respect to the executive government of Canada, the Senate and the House of Commons, with certain exceptions.

This hybrid proposal of the then Minister of Justice, the Honourable Guy Favreau, stipulated that all further constitutional amendments would need to be an Act of Parliament with many requiring the consent of all provinces, including those matters respecting the distribution of powers. Depending on the subject-matter, other amendments would require varying levels of support from various provinces. Parliament's unilateral authority to amend the Constitution, pursuant to section 91(1) of the *Constitution Act, 1867*, was further limited with the addition of more matters to the list of excluded categories. The proposal initially received acceptance in principle by all provinces at the conference. However, acting in response to popular opposition in Quebec to the formula which was viewed as an obstacle to provincial aspirations, Quebec Premier Jean Lesage subsequently withdrew his support. The defeat of the Fulton-Favreau Formula in 1964 left constitutional discussions in abeyance until 1968.

The Federal-Provincial First Ministers' Conference of February, 1968, was significant in the magnitude of the constitutional review which it undertook and the commitment it made to redefining the Constitution and entrenching in it citizens' funda-

mental rights and liberties as the Canadian Charter of Human Rights. It was determined that there were five broad categories of rights to be protected: political; legal; egalitarian; linguistic; and economic.

At the same time, the federal government undertook to present its views, through a series of working papers, on various constitutional matters. In an effort to establish the most appropriate type of Constitution for Canada, the working papers touched on what were identified as the fundamental elements of the Constitution: the objectives of Confederation; a charter of citizens' rights; Parliament's Constitution; the constitutions of the provincial governments; the Supreme Court and the judicial system; and the distribution of powers.

The Victoria Charter

The 1968 Federal-Provincial Constitutional Conference was also significant in the momentum it gave to constitutional discussion and, after its conclusion, a series of meetings ensued. By 1970, it was agreed that attention must be focused on devising an acceptable constitutional amending formula and on patriation of the Constitution.

A working session of the Constitutional Conference 8-9 February, 1971, found consensus among the First Ministers on an amending formula. This consensus provided the basis for the "Canadian Constitutional Charter, 1971" (more commonly referred to as the Victoria Charter). This historic agreement was reached at the Seventh meeting of the Constitutional Conference the Federal-Provincial First Ministers' Conference, which convened in Victoria, British Columbia from 14-16, June, 1971. The implementation of the Victoria Charter was contingent upon all of the provinces conveying their support for the agreement by 28, June, 1971. Two provinces (Saskatchewan and Quebec) failed to do so, thereby effectively paralysing the process of constitutional change.

The Victoria Charter differed from its predecessors in that it did not include any provision for unanimity for any amendments to the Constitution. In particular, its simpler regional approach stood in contrast to the more complicated Fulton-Favreau Formula based on provincial consent. The Victoria Charter pro-

posed that key amendments would require the consent of Parliament, two of the Atlantic legislatures, Quebec, Ontario, and two of the Western provinces, representing at least 50% of the population of those provinces. In addition, amendments affecting one or more, but not all, of the provinces needed only the consent of Parliament and of the provincial legislatures concerned. Parliament and the legislatures would also be designated particular exclusive powers of amendment. All the amendments would be in the form of a Proclamation of the Governor General rather than an Act of Parliament.

After the Victoria Charter

Despite the disheartening outcome of the negotiations in Victoria, subsequent efforts towards constitutional reconciliation were made and the Victoria Charter was a milestone which provided the impetus for further discussions as well as the basis for future proposals.

The Special Joint Committee of the Senate and the House of Commons on the Constitution (the Molgat-MacGuigan Committee) recommended in its 1972 report that the procedures espoused in the Victoria Charter be adopted. During 1975-76, Prime Minister Trudeau initiated informal discussions with the premiers in an effort to convince them of the merit of this Victoria proposal, but without success. In 19, January, 1977, Mr. Trudeau forwarded to the premiers a proposed resolution to the Queen, which touched on such constitutional matters as an amending procedure, the Senate, language rights, and regional disparities. Again the premiers rejected it.

Several efforts towards a constitutional settlement were made in 1978. Tabled in the House of Commons on 12 June, 1978, the federal government's white paper entitled 'A Time for Action' recommended a two-stage renewal of the Constitution. The first stage would focus on agreements between the federal government and the provinces on amendments possible pursuant to section 91(1) of the *Constitution Act, 1867*. The second stage would concentrate on amendments attainable only by an Act of the United Kingdom Parliament, including changes to the distribution of powers.

The central premise of this document was the need for a renewal of the Canadian federation. This was to be achieved through various means: development of the two linguistic majorities; respect for cultural diversity; the fostering of economic integration; and the self-development of the regions. This renewal was predicated on the establishment of a 'Statement of Aims', a Charter of Rights and Freedoms, a new distribution of powers, an amending procedure, and the patriation of the Constitution. In addition, it proposed replacing the Senate with a new legislative body, the 'House of Federation', and entrenchment of the Supreme Court in the Constitution.

'A Time For Action' was but one summary of proposals and did not constitute an exhaustive list of all ideas being explored. Another study published by the federal government at the time outlined four possible amending procedures: (1) the Fulton-Favreau formula; (2) the Victoria Charter formula; (3) the Victoria Charter formula combined with referendums; and (4) the use of referendums only. In addition, another Special Joint Committee of the Senate and the House of Commons on the Constitution of Canada (the Lamontagne-MacGuigan Committee) was created in 1978. Its mandate was to examine and report on government proposals on matters related to the Constitution, including observations on Bill C-60.

Bill C-60, an Act amending the Constitution, was tabled by the Prime Minister in the House of Commons on 20 June, 1978. There were five basic categories on provisions in the Bill :

- provisions that related to Parliament's exclusive authority to enact provisions under Section 91(1);
- provisions over which Parliament had partial rather than exclusive authority, including the Charter of Rights and Freedoms;
- new provisions requiring preliminary agreement between the federal and provincial governments;
- provisions regarding the distribution of powers;
- provisions regarding provincial constitutions and amendments.

While the bill did not contain an actual amending procedure, and was merely intended as a framework for constitutional discussions, its legality was challenged and the Supreme Court ruled that provisions in the bill did exceed the power of constitutional amendment granted to the federal government under section 91(1) of the *Constitution Act, 1867*.

The Supreme Court itself was the subject of close constitutional scrutiny in 1978. Four principle issues were raised respecting it; the statutory, rather than constitutional, status of the Court; the method of appointment of judges, the size of the Court, and the Court's jurisdiction.

In 1979, the Task Force on Canadian Unity (the Pepin-Robarts Commission), established by the federal government to devise an acceptable solution of the persistent constitutional deadlock, made its recommendations. The amending procedure in the Victoria Charter was reiterated along with other provisions for amendment by way of a majority vote on an Act by the House of Commons and the 'Council of Federation' (which would replace the Senate as the Upper House) and ratification of the constitutional amendments in a national referendum with majority approval in each of the regions. Parliament would have exclusive authority for other amendments, except with respect to provincial constitution, over which the respective provinces would maintain exclusive control.

By 1979, a concentrated effort on formulating a constitutional package which would be acceptable to all Canadian legislative bodies was evident. Most prominent were a series of meetings across the country of the Continuing Committee of Ministers on the Constitution which convened throughout 1979-80. In particular, negotiation revolved around the principles embodied in the Victoria Charter, and to a lesser degree the Fulton-Favreau formula, as attempts were made to tailor it into a unanimously acceptable proposal. In addition, other companion issues were considered, including the Supreme Court, interprovincial trade, fisheries, and resource ownership. Primary consideration was given to drafting a Canadian Charter of Rights and Freedoms.

The Constitution Act, 1982

One key event which coloured the constitutional debate during the 1979-80 period was the election in 1976 of a provincial government in Quebec dedicated to the separation of Quebec from the Canadian federation. In 1980, the Quebec government of Premier Rene Levesque held a provincial referendum on whether or not it should pursue negotiations to attain what it called 'sovereignty-association'.

After the majority in Quebec voted 'No' in this 20 May, 1980, referendum, the federal government immediately renewed for constitutional change. Prime Minister Trudeau had three particular objectives: to consolidate an agreement with Quebec; to devise an acceptable amending formula which would patriate the Constitution; and to enact a Charter of Rights and Freedoms. Without a forthcoming agreement among the provinces, the federal government attempted to act unilaterally by proposing its own resolution, including an amending formula, in the House of Commons. Several provinces objected. The Supreme Court acknowledged the legality of the resolution on 28 September, 1981, but questioned its legitimacy, arguing it was contrary to the convention of 'consensus' which was inherent in the Canadian federal system.

Many of the ideas considered in the past were eventually consolidated into a unitary package of constitutional reform which took the form of a Proposed Resolution for a "Joint Address to Her Majesty the Queen Respecting the Constitution of Canada" tabled in the House of Commons and the Senate on 6, October, 1980. This particular Resolution became the cornerstone document from which much constitutional discussion, negotiation and analysis stemmed. The Resolution was considered in Parliament as well as by another Special Joint Committee of the Senate and the House of Commons on the Constitution (the Hays-Joyal Committee). The Federal-Provincial First Minister's Conference, held in Ottawa 2-5 November, 1981, also undertook to review the proposed Resolution and conveyed its amendments to Parliament on 5 November, 1981.

The House of Commons and the Senate subsequently considered and made final amendments to the Resolution. Once the

Resolution was agreed upon by both Houses of Parliament, it was sent to the United Kingdom Parliament for approval and enactment. In response to this Resolution, the *Canada Act, 1982*, a statute of the Parliament of the United Kingdom, was assented to by Queen Elizabeth II on 29 March, 1982. On 17 April, 1982, it was proclaimed in force by Queen Elizabeth II at a ceremony in Ottawa.

The *Canada Act 1982* was a relatively short Act which patriated the Constitution of Canada, stating simply that the Parliament of the United Kingdom was absolved of its legal authority to enact laws which would be considered as a part of Canadian law. The *Constitution Act, 1982*, enacted as Schedule B to the *Canada Act, 1982*, consisted of seven parts and contained the substantive changes to the constitutional framework. Although it was not legally a Canadian statute, it has been treated as one.

Part I of the *Constitution Act, 1982*, as originally enacted, contained the *Canadian Charter of Rights and Freedoms*. Its underlying objective was to ensure that citizens would be protected from violation of a wide range of rights and freedoms and included such general provisions as gender equality and the preservation of the Canadian multicultural heritage. The rights and freedoms guaranteed in the *Charter* were those affecting fundamental freedoms, democratic rights, mobility rights, legal rights, and minority language education rights. (*The Constitution Act, 1867* did not include a Bill of rights. However, there was a predecessor to the *Charter*, the 1960, Canadian Bill of Rights, which continued in effect after enactment of the *Charter*. The Canadian Bill of Rights was narrower in scope than the *Charter* and as an Act of Parliament is susceptible to change through legislation. The *Charter*, by contrast, is entrenched in the Constitution and can be amended only through the constitutional amending procedure.)

There were two provisions in the *Charter* which were particularly noteworthy. Catalytic in nature, their inclusion potentially transformed the dynamics of Canadian politics dramatically and permanently. The first one, contained in section 52 of the *Constitution Act, 1982*, defined the Constitution of Canada as the 'supreme law of the country' and declared that any law in contravention of it was null and void. By enabling the courts to strike

down as unconstitutional any law, be it federal, provincial or municipal, if it violated a freedom guaranteed in the Charter, the supreme legislative authority was effectively transferred from Parliament and the legislatures to the judiciary.

The second provision was the 'notwithstanding' clause contained in section 33 of the *Charter*. By including this phrase in subsequent legislation, governments were able to enact legislation which somehow violated a certain provision or provisions embodied in the *Charter*. The inclusion in legislation of an express declaration citing the particular rights and freedoms in the *Charter* being contravened meant that Canadian governments' power to legislate potentially became the power to override. This power to override was limited in respect that it was applicable to specific sections of the *Charter* only. Furthermore, the express declaration automatically expired at the end of five years. The declaration could, however, be re-enacted once. Notwithstanding these administrative limitations, the potential impact of this provision was unlimited. Particularly significant was the mitigating effect it had on the power transferred to the judiciary pursuant to the definition of the Constitution as contained in section 52 of the *Constitution Act, 1982*. Opponents to the inclusion of the 'notwithstanding' clause feared its abuse might undermine the security intended by the *Charter*.

The subsequent parts of the *Constitution Act, 1982* have also attempted to rectify constitutional deficiencies recognized in the past. Part II acted as an affirmation and recognition of the existing aboriginal and treaty rights of Canada's aboriginal peoples. Part III addressed the issues of equalization and regional disparities by declaring that all Canadians have an equal right to economic development and essential public services. Part IV called for regular constitutional conferences. The various sections in Part V outlined the constitutional amending procedures to be invoked. The amending formula which was finally agreed upon was similar in principle to that contained in the Victoria Charter. Thus, the general amending formula required the resolutions of Parliament and two-thirds of the provinces representing at least 50% of the population of the provinces. Certain other amendments would require unanimity while those amendments which were applicable to some, but not all, of the provinces required the

consent of Parliament and the legislatures concerned. Exclusive amending powers were reserved for Parliament in matters relating to the executive government of Canada or the Senate and the House of Commons and for the individual provinces with respect to their constitutions. Part VI concerned amendments to the *Constitution Act, 1867*, and the last part, Part VII, contained general provisions.

It is interesting to note that neither the *Canada Act 1982* nor the *Constitution Act, 1982* repealed the original *British North America Act, 1867*. The amendments made to it were relatively minor, the most noticeable being its name change to the *Constitution Act, 1867*. As an integral part of the Canadian Constitution, it remained in force.

All of the provinces, except Quebec, were signatories to the *Constitution Act, 1982*. Although the *Constitution Act, 1982* was one of the most noted achievements in Canadian constitutional history, Quebec's resistance to it detracted from its overall success. Technically, the lack of unanimity did nothing to alter its legality. However, it did act as a reminder of Canada's long-standing linguistic division and undermined the symbolic unity of the country.

The Meech Lake Accord

Prime Minister Mulroney made a commitment in 1984 to renew federalism, including making Quebec a signatory to the Constitution. In 1986, Quebec Premier Robert Bourassa, made known the five minimum conditions to be met in order for his government to ask the Quebec National Assembly to sign the Canadian Constitution. These five minimum conditions were: (i) the recognition of Quebec's distinct nature (ii) defining the limitations of federal spending power (iii) increased powers for Quebec with respect to immigration, (iv) a veto on constitutional amendments or the ability to opt out with financial compensation; and (v) participation in the appointment of judges to the Supreme Court. Again the federal and provincial governments of Canada were consumed with constitutional negotiations in an attempt to forge unanimous agreement and ensure a Quebec partnership in the Canadian federation. Discussions which followed were organized on the basis of Quebec's five demands.

As an extension of these negotiations, there was agreement at the First Ministers' Meeting on the Constitution at Meech Lake on 30 April, 1987, to have certain constitutional principles drafted into a text. These principles concerned: Quebec's distinct society; immigration; Supreme Court appointments; spending power and opting out of national shared-cost programmes; the amending formula; and provision for a second round of constitutional negotiations.

This 1987, *Constitutional Accord* (also known as the Meech Lake Accord), which was unanimously agreed to by the First Minister on 3 June, 1987, consisted of three documents: (i) a political accord expressing the First Minister's commitment to constitutional amendment; (ii) the motion for a resolution to obtain a Governor General's proclamation for the constitutional amendments; and (iii) the schedule to the resolution containing the texts of the proposed amendment. These texts, entitled 'Constitution Amendment, 1987', primarily pertained to amendments to the *Constitution Act, 1867* or the *Constitution Act, 1982*.

It was also agreed that the Meech Lake Accord would not come into force unless adopted by both Houses of Parliament and each provincial Legislature within three years of the first resolution adopted by one of the Legislatures (the first was passed by Quebec on 23 June, 1987). The House of Commons actually adopted the Accord twice: on 25 October, 1987; and again on 22 June, 1988. The second approval became necessary when the Senate attempted to amend the resolution. After the Senate's 180-day suspensive veto on constitutional amendments expired, the House passed the Accord again. In the end, the Accord was rejected by two provinces; Manitoba which never passed it; and Newfoundland which rescinded its original approval.

After Meech Lake

When the Meech Lake Accord was not agreed to by 23 June, 1990, much constitutional attention was devoted to encouraging the full and active participation of Quebec in the Confederation. Quebec itself made a concerted effort in this direction. The Constitutional Committee of the Quebec Liberal Party (the Allaire Committee) was appointed in February-March of 1990 and

submitted its final report in January, 1991. The Committee suggested a new distribution of powers: Quebec would have exclusive jurisdiction in all matters not specified by the Constitution; Quebec and the federal government would have joint authority in other areas; and Ottawa would have exclusive authority in other specified matters. Recommendations were also made with respect to other issues, including abolition of the Senate, the Supreme Court, an amending formula, and political autonomy for Quebec. If an agreement with the rest of Canada for a renewed federation could be reached on the basis of its proposals, the Allaire Committee recommended that Quebec hold a referendum before the end of 1992 to ratify the agreement. Otherwise, a referendum would be held strictly on the sovereignty of Quebec, with subsequent efforts for an economic union with the rest of Canada. After the proposed referendum, the Quebec National Assembly would have the responsibility of adopting a Quebec Constitution, including a Quebec Charter of Human Rights and Freedoms. With minor amendments, the Committee's report was adopted at the General Convention of the Quebec Liberal Party, 8-10 March, 1991.

At the same time, a group of Quebec politicians and non-politicians, representing a wide range of political views, was appointed by the Quebec National Assembly on 4 September, 1990, to review and report on the political and constitutional status of Quebec. This Commission on the Political and Constitutional Future of Quebec (the *Belanger-Campeau Commission*) presented two basic options for the future of the province: a final attempt at finding a new definition for Quebec within the Canadian federation; and political sovereignty. The need for a referendum was supported.

Another Special Joint Committee of the House of Commons and the Senate (the Beaudoin-Edwards Committee) was created in December, 1990 and reconstituted in 1991 with a mandate to examine the constitutional amending procedure. It was believed at that time that the Meech Lake Accord had failed to be ratified due to the amending procedure in the *Constitution Act, 1982*. After many hearings, it reported on 20 June, 1991, just days before its 1, July, 1991, deadline. If implemented, some of the Committee's recommendations would have required changes to the Constitution, including a general amending formula that

provided for regional vetoes and a maximum ratification period for constitutional amendments of two years. Also included were recommendations affecting aboriginal rights, the territories, the creation of new provinces, and the Supreme Court. The implementation of other recommendations could be done without amending the Constitution.

Public criticism surrounding the demise of the Meech Lake Accord repeatedly focused on its failure to be an open process through consultation with the public to rectify this image of a closed process, the Citizens' Forum on Canada's Future (the Spicer Commission) was established by the federal government, beginning in January, 1991 with instructions to report to Parliament by July 1, 1991. Although it was widely said that the Forum's objective was to examine the process for constitutional amendments and learn what Canadians wanted in their Constitution, it did not remain solely focused on constitutional matters. In fact, the final report of the Citizens' Forum touched on such issues as bilingualism, aboriginal rights, cultural diversity, and the sovereignty of Quebec.

A pending referendum in Quebec, to be held no later than October, 1992, was on the political horizon. As well, the public's insistence for public consultation on the future of Canada was unrelenting. The federal government responded by asking for Canadians' view and reactions to a package of 28 constitutional proposals entitled "Shaping Canada's Future Together" which was tabled by Prime Minister Mulroney in the House of Commons on 24 September, 1991.

The Special Joint Committee on a Renewed Canada (the *Beaudoin-Dobbie Committee*) was established in June, 1991 to gather and consolidate these responses. Created as a public forum for constitutional consultation, the Committee's 28 February, 1992, all-encompassing report outlined a series of recommendations based on public reaction to the federal government's 28 proposals. Detailed recommendations were made on such topics as aboriginal self-government, Quebec's status as a distinct society, a reformed Senate, and the amending formula.

This process did not satisfy the public demand for a democratic voice in the decision-making process; instead, the Canadian public remained insistent on its demand for a participatory role. Bill C-81, an Act to provide for referendums on the Constitution of Canada, sought to offer a means of giving a voice to each citizen. This legislation, assented to on 23 June, 1992, enabled the federal government to hold a referendum on the Constitution, either nationally or in any province.

In preparation of a promised national referendum, the First Ministers convened during the summer of 1992, for constitutional negotiations, the outcome of which was the 28 August, 1992, "Consensus Report on the Constitution" (the Charlottetown Accord). Its vast array of proposals reflected a pervasive dissatisfaction with the *status quo* throughout many segments of society. The Report attempted to address the deficiencies identified, proposing changes with respect to aboriginal rights, the House of Commons, the Senate, the Supreme Court, the distribution of powers, and the amending formula.

The reforms envisioned in the Charlottetown Accord, and its subsequent legal text, were to serve as the basis for the referendum vote. When the vote was finally held on 26 October, 1992, the majority of the provinces and of Canadians voted 'No' to the question : 'Do you agree that the Constitution of Canada should be renewed on the basis of the agreement reached on August, 28, 1992 ?'

Conclusion

The future of Canada's Constitution remains uncertain. As witnessed by its evolution, Canada's constitutional history has proved to be a cyclical resurgence of particular constitution-related issues and proposals. Those which survived from one constitutional era to the next, such as the distribution of powers and an amending formula, provided a continuity of focus and the impetus for successive efforts at constitutional conciliation. However, the persistent and repetitive nature of the process has been flavoured with topical issues brought about by the changing face of politics. As a federation, Canada's challenge remains the incorporation of competing needs into a comprehensive, yet balanced,

constitutional package. With symbolic as well as legal implications, the Constitution of Canada not only defines the political structure and parameters within which Canadians live, but is also indicative of the beliefs and aspirations of Canada as a nation. As these continue to be renewed and redefined, so too must the Constitution evolve.

A Full Pan-European Role For The Council Of Europe's Parliamentary Assembly

Heinrich Klebes and John Hartland

The acceleration of political change in Central and Eastern Europe and the erstwhile Soviet Union during 1989-1991 has caused significant re-assessment of the roles and inter-relations of international parliamentary assemblies. Leaving aside those Assemblies with a primarily defence/security vocation (North Atlantic and Western European Union), the most spectacular impact has been on the Council of Europe's Assembly, and perhaps on its relations with the IPU (Inter-parliamentary Union). The pan-european vocation of Council of Europe has been affirmed, together with its vocation to protect and promote democracy on the basis of human rights and the rule of law. This affirmation will culminate in the Organisation's first-ever 'summit' conference of Heads of State and Government in Vienna this coming autumn. The Parliamentary Assembly will seek to develop its relations with the IPU so as to help provide a focus for the world's developing democracies. This can now be done without the complications of a hitherto structurally in built ideological divergence between our

members and some of those of IPU as to whether democracy could really develop in non-pluralist societies. Our series of 'Strasbourg Conferences on Democracy' and the 'International Institute for Democracy' can be instruments to this end.

The purpose of these brief remarks is to sketch the impact of events on the current functioning of the Parliamentary Assembly. However, to complete the general picture, one must also observe that the acceleration of negotiations on the Maastricht Treaty of European Union among the 12 countries of the European Community was also prompted by political change. Relations between our Assembly and the (directly-elected) European Parliament might undergo significant change in a post-Maastricht European order. Parliamentarians of the Western European Union Assembly who, for the countries concerned, are the same as ours, would have a role to play *vis-a-vis* Community institutions in the spheres of security and defence. It is also clear that any further strengthening of this new order will depend on closer involvement of national Parliaments of Community countries, all of which are already represented in the Council of Europe.

The initial impact on the Council of Europe was an opening-up towards the East and pressure to introduce new members. Our Organisation has long been open, inter-governmentally, to contacts and co-operation with the Eastern and Central European countries concerned and the former USSR, most notably through its cultural convention. Suddenly it became a question of organising relations with the legislative Assemblies of countries moving, sometimes painfully and uncertainly, to democracy. Our response in mid-1989 was to introduce 'special guest status' for delegations from the Legislative Assemblies of the USSR, Hungary, Poland and Yugoslavia on condition, first of a request for it; next of compliance with UN human rights covenants and CSCE principles, pastly, of the appointment of genuinely pluralist delegation. This status was withdrawn from Yugoslavia on 30 June, 1992. Naturally, this status was regarded as a prelude to full membership. Today, with the further fragmentation of Europe, 'special guest status' is enjoyed by 13 countries which have applied for full membership including the somewhat special cases of the newly-established States of Slovakia and the Czech Republic. Three other countries Armenia, Azerbaijan and Macedonia—through

their Legislative Assemblies are requesting it.

The status of 'special guest' involves solely relations with the Parliamentary Assembly. It is accorded by the Assembly's Bureau, enlarged to include the chairmen of the 5 political groups. Conditions for full membership involve a 'heavier' procedure, and have indeed become more demanding over the years. It is no longer enough to subscribe to principles of democracy, of the rule of law and human rights as set forth in the Organisation's Statute. Nor, in addition to this, to sign the European Human Rights Convention. Today, all Member States must accept the compulsory jurisdiction of the Court set up under the Convention and the right of individual petition by their citizens to the Human Rights Commission. Before deciding on an application for membership, the Committee of Ministers requests an opinion from the Parliamentary Assembly. Its drawing-up involves three major committees (political, legal & human rights, relations with European non-member countries), with visits to the country concerned and, usually, independent assessments of the new constitution and state of legislation by members (serving in a personal capacity) of the Court and Commission of Human Rights. Given the sheer number today of requests and applications, this has come to represent a considerable extra burden for the committees concerned—and also for the Bureau of the Assembly which must simultaneously manage our relationship with the conference on Security and Co-operation in Europe (CSCE).

Applications for 'special guest status' and applications for full membership have in common that both involve appraisals by the Assembly of how the country concerned is managing its transition to democracy. One of the most significant impacts on the public profile of the Assembly has been the observation of elections as part of the basis for these appraisal. From March 1990 to the time of writing, 14 elections have been observed in 12 different countries by *ad hoc* committees of representatives of political groups, established by the Bureau. In 1990 elections were observed in the German Democratic Republic, in Hungary, Romania, Bulgaria and Czechoslovakia; in 1991 in Albania, Bulgaria and Poland; in 1992 in Albania, Croatia, Romania, Estonia, Lithuania and Slovenia. This attribute of political balance is essential.

Experienced parliamentarians who take part in these missions have little trouble in reconciling their limited terms of reference under the Bureau's authority with their appreciation of the potential weight of their contribution to a decision process which is being most carefully watched by the political groups which appointed them. They know that the very *raison d'être* of the Council of Europe is on the line with each of these decisions. They are well aware that proper observation and assessment of an election means examining the electoral law, forming an impression of the fairness of the campaign, checking arrangements for polling and for transmission of polling data and for subsequent investigation of complaints (on which acceptance of the outcome may depend). Appraisal of the election law and of voting rights for ethnic minorities may require reference to the Constitution or draft constitution. What are the provisions for a genuinely independent judiciary? The judgment whether an election approaches Council of Europe standards—of being free, secret, universal and direct—will almost certainly crystallize in the minds of experienced politicians in the context of a broader assessment of the likelihood of the incoming government showing respect for the Council of Europe values.

Criticism has been voiced in some international circles on having recourse to short-duration parliamentary visits for election observation. Three points may briefly be made in response. First, our programmes are set within the perspective of longer-term ongoing political assessments of the countries concerned: they provide for intensive exchanges, in the two days before polling, with political leaderships, media and trade union and ethnic minority representatives, other international observers (*e.g.* from the CSCE and the European Parliament) and (also after polling) with Council of Europe ambassador. Secondly, parliamentarians know - as officials and experts usually do not—what it is to run a campaign (and perhaps suffer from unfair practice) and to win or lose elections: if intuition plays a part in their judgments, it is usually firmly grounded in personal experience. Lastly, and quite visibly, politicians in emerging democracies listen to those from established democracies with a different quality or attention from that which they give officials and experts—particularly where the future of their countries' institutions is at stake.

The impact of political change on the Assembly's work is felt at other levels. As a complement to our Organisation's inter-governmental programmes of technical co-operation and assistance to Eastern and Central Europe, we are running programmes of assistance for the setting-up and procedural functioning of Legislative Assemblies. In the longer term, through the series of Strasbourg Conferences and the International Institute for Democracy, we seek to remain a focus for world-wide reflection on democracy.

To cope with the challenge of expanded membership, including the prospect, in the longer term, of a fully democratic Russia, the Assembly is making proposals for revision of the Council of Europe's Statute, for reform of its human rights machinery and for a protocol to the Human Rights Convention for protection of minorities. These proposals should be ripe for consideration by Heads of State and Government in Vienna during autumn 1993.

All specialist committees have re-oriented their programmes to the concerns of countries in transition to or still in the early stages of democracy—the legal and human rights committee as indicated in the preceding paragraph; the economic committee to the shift to market economies; the social committee to the consequences for employment of these shifts, as well as to the rights of women (felt in some countries to be under threat from religious fundamentalism); the environment committee to newly discovered areas of unimagined damage; the science committee to the state of nuclear electricity generation; the cultural committee to the search for new forms of co-operation and expression of the cultural affinities which help to sustain a sense of common heritage in this 'greater Europe'.

If the Council of Europe's Parliamentary Assembly is thus experiencing a revitalisation and amplification of its role, notably in respect of transitions to democracy, the strain on resources is considerable. Traditional claims and concerns are pursued with renewed vigour, in a wider setting.

There is almost a sense of surprise at the way the Assembly, its Bureau and its Committees—and indeed the whole of our Organisation, led by Secretary-general Catherine Lalumière—has met the need for quick response to the challenge of providing a

frame for the 'greater Europe' which is now emerging, on the basis of Council of Europe values and in coherent relation to other international and European institutions. Our hope is, naturally, to sustain the momentum we have now achieved and, notwithstanding the tragic spectacle of events in Yugoslavia, to play a stabilising role for Europe and in the world arena.

ANNEXURE 'A'

Council of Europe

Consell de l'Europe

Council of Europe

Member States Austria, Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, United Kingdom

"Special guest" Parliaments: Albania, Belarus, Croatia, Czech Rep., Estonia, Latvia, Lithuania, Moldova, Romania, Russia, Slovak Rep., Slovenia, Ukraine.

ANNEXURE B

Relations between the Council of Europe and the countries of Central and Eastern Europe

This document describes the current situation regarding applications by the countries of Central and Eastern Europe for accession to the Council of Europe (referred for opinion to the Assembly by the Committee of Ministers) and for obtaining special guest status with the Parliamentary Assembly.

MEMBERSHIP		SPECIAL GUEST STATUS	
Obtained	Requested (referred by the Committee of Ministers)	Granted	Requested
Bulgaria	Albania	Albania	Armenia
Hungary	Croatia	Belarus	Azerbaijan
Poland	Czech Republic ¹	Croatia	Macedonia
	Estonia	Czech Republic	
	Latovia	Estonia	
	Lithuania	Latvia	
		Lithuania	
	Romania	Moldova	
	Russia	Romania	
	Slovak Republic*	Russia	
	Slovenia	Slovak Republic	
	Ukraine	Slovenia	
		Ukraine	

The House Of Representatives Of Cyprus

Takis Hadjioannou

Powers of the House

The Legislative power of the Republic of Cyprus is exercised by the House of Representatives in all matters except certain matters connected with education and personal and religious status which are reserved to the Communal Chambers.

Since Cyprus has a presidential system, Members of the Government may not be Members of the House of Representatives. The two offices are incompatible, and if a Member of the House is appointed by the President to become a Minister, he must relinquish his seat in the House. The President and Vice-President of the Republic may address the House personally or by message or convey their views to the House through the Ministers. The Ministers may follow the proceedings of the House or of any Committee of the House, and may make a statement to the House or to any Committee of the House on any subject within their competence.

Ministers are not constitutionally bound to appear before the House or before any Committee of the House at the request of the House. In practice, however, no Minister has declined to do so when requested by the President of the House or by the Chairman of a Committee.

The term of office of the President of the Republic is, of course, constitutionally determined. Ministers hold office during his pleasure and the House under the principle of separation of powers which permeates the Cyprus Constitution, has no power to determine the length of the term of office of the Government, just as the Government has no influence over the length of the life of the House.

The President of the Republic and the Vice-President have the right to final veto on any law passed by the House which concerns certain specified issues of foreign affairs, defence and security. This power may be exercised either jointly by the President and the Vice-President or separately.

As far as other types of legislation are concerned, the President and the Vice-President jointly or separately have only delaying power. They may return a law or other decision to the House. In such a case the House must again pronounce on the law within fifteen days or, if it concerns the budget, within 30 days. If the House persists in its decision, then the President and Vice-President are bound to promulgate the law or decision in question by publishing it in the normal way in the gazette of the Republic.

Term of Office

The term of office of the House of Representatives is five years. A general election must be held on the second Sunday of the month immediately preceding the month in which the term of office of the outgoing House expires. The outgoing House continues in office until the newly elected House assumes office, but during this time the outgoing House does not have the power to make any laws or to take any decisions on any matter, unless it is a case of exceptional or unforeseen circumstances. These circumstances would have to be specifically stated in any law or decision approved during this time.

The House may dissolve itself by its own decision before its term of office expires. Such a decision must also specify the date of the general elections which must not be less than 30 days or more than 40 days from the date of the dissolution decision, and must also specify the first meeting of the newly elected House which must not be later than fifteen days after the general elections.

Member's Immunity

Some reference ought to be made to the arrangements for immunity for Members of the Cyprus, House of Representatives. Representatives have immunity from civil or criminal proceedings in respect of anything which they may say, or in the way that they cast their vote, in the House. A representative may not be arrested or imprisoned without leave of the Supreme Court as long as he continues to be a member, unless he is taken in the act of committing specified grave offences.

Membership of the House

The House has 80 seats. According to the Constitution, 56 Representatives are elected by the Greek-Cypriot community and 24 by the Turkish-Cypriot community, separately, from amongst their members, respectively, by universal suffrage of adults over the age of 21, by direct and secret ballots which should be held on the same day for both communities.

However, since December, 1963, Turkish-Cypriot Members have not attended the House, nor have elections been held according to the constitutional provisions among the Turkish-Cypriot community. At the same time, the Turkish-Cypriot Vice-President and the Turkish-Cypriot Ministers and officials withdrew from the Government. Despite this, the House has maintained the seats allocated to the Turkish-Cypriot community vacant, these remaining at the disposal of Turkish-Cypriot Representatives once they are elected according to the constitutional provisions.

The electoral law at the moment provides for a proportional representation system. The number of seats in each constituency has been determined by law. The constituencies coincide with the administrative districts. Each elector may vote for a party or an

independent candidate, without having the possibility of selecting candidates from different parties. The parliamentary seats are then distributed according to the electoral strength of each party.

Candidates for election to the House must be citizens of the Republic, must have attained the age of 25, must not have been convicted of any offence involving moral turpitude or dishonesty, and must not be incapacitated for reasons of mental health. A seat becomes vacant if its occupant dies, resigns, becomes disqualified due to conviction for an offence, falling under the disqualifying categories or upon a Representative becoming the holder of the office of Minister, member of a municipal council, member of the security forces of the Republic, or of any public or municipal office.

◦ The President of the House is greek-Cypriot and is elected by the Representatives elected by the Greek-Cypriot community and a Vice-President is constitutionally provided for, who would be a Turkish-Cypriot and would be elected by the Representatives of the Turkish-Cypriot community.

In case of temporary absence of the President or the Vice-President of the House, their functions are performed by the eldest Representative of the Respective Community unless the Representatives of the respective community decide otherwise.

The current Members of the House were elected at general elections held on 19 May, 1991. Four parties are represented in the House—the Democratic Rally Party which has 20 seats, the AKEL Party which has 18 seats, the Democratic Party which has 11 seats and the EDEK Socialist Party which has 7 seats.

Procedure of the House

The ordinary Session of the House of Representatives lasts for a period beginning in September and ending in July of the following year. The meetings of the House take place once or twice a week, usually on Thursdays and Fridays. The meetings of the House are open to the public and verbatim records of its debates are published. Extensive extracts of the debates are broadcast by radio.

The House is in quorum when at least one third of the total number of its Members are present. The laws and the decisions of the House are passed by a simple majority vote of the Representatives present and voting.

Agenda

A agenda must be distributed to the Representatives at least 24 hours prior to the meeting. The procedure of the House may perhaps best be outlined by explaining the agenda of an ordinary meeting.

The agenda of a normal meeting of the House consists of the following Chapters.

Chapter A : Legislation

Chapter B : Introduction of Bills and Documents

Chapter C : Questions and Answers

Chapter D : Subjects tabled by Representatives

Chapter A : Legislation

Legislation is the first Chapter of any ordinary meeting of the House. Every Bill on being introduced in the House is referred by the President for examination by the appropriate Committee of the House. The introduction of the bill in the House is a formal stage, intended only to give the House notice that the Bill has been introduced. This is considered to be the first reading of the Bill.

With the exception of those Bills which are declared to be of an urgent nature by a majority of the Representatives, no Bill which has passed on the Committee stage may be debated in the House before the lapse of 48 hours, after it has been distributed to the Representatives together with the report of the Committee.

A Committee, when considering any Bill referred to it, examines all memoranda, appeals, recommendations and suggestions submitted on the subject before it by any organization or corporate body or by any citizen. The Committee also considers all proposals for amendments of bills put forward by Representatives.

A Committee may, during its deliberations, hear any person or any representative of any organization on any matter relating to the subject of a Bill or a decision before it. Any member of the Committee may question such person for the purpose of elucidating any statement made by him or for the purpose of obtaining further information. The meetings of the Committee are open to journalists and other representatives of the mass media unless otherwise decided by the Committee depending on the nature of the subjects under discussion.

When the Committee completes its deliberation on any Bill referred to it, it prepares a report for distribution to the Representatives.

The Report usually contains the following:

- (a) The main provisions, in a summary form, of the bill;
- (b) The amendments suggested by the Committee, if any, and the reasons for such amendments;
- (c) The texts of all amendments, recommended by members of the Committee;
- (d) The observations of the Committee on the bill before it and any recommendations as to points which the Committee wishes the House to consider or convey to the Government.

Where the Committee has not decided unanimously on a Bill, the fact is stated in the report and the points on which there is a divergence of opinion are indicated, as well as the positions taken by the majority and the minority.

Any Representative or Representatives of a Committee who find themselves in disagreement with the decision of the Committee, or any part of it, may address the House and explain their views.

When the Committee reports back to the House, the latter considers the Bill and the report of the Committee and debates the Bill, first on issues raised by the Bill as a whole and then clause by clause. This is considered to be the second reading of the Bill. At this stage verbal alternations are allowed, or, on the

House so deciding, the Bill may be referred for further consideration to one or more Committees.

The final stage in the House is the third reading when the House considers the Bill as a whole and whether it should or should not become a law.

A law of the House comes into force on its publication in the Official Gazette of the Republic unless another date is provided for by such a law.

Chapter B : Introduction of Bills

Both Representatives and Ministers have the right to introduce Bills in the House.

Representatives are limited only in one way in their ability to introduce Bills to the House. This is that they are constitutionally inhibited from introducing any Bill which relates to an increase in budgetary expenditure. The budget is introduced in the House by the Minister of Finance at least three months before the day fixed by law for the commencement of the financial year. If the budget has not been adopted by the house by the first day of the financial year to which it relates, the House may, by a resolution, authorize the meeting of any expenditure required by the Government for periods not exceeding one month at a time or two months in aggregate, from the Consolidated Fund. Such authorizations may not exceed the sums voted for each service for an equivalent period during the preceding financial year.

During the financial year the Government may, if necessary, introduce a supplementary budget for the approval of the House. In this case the House may approve or refuse its approval to any expenditure proposed, but it may not vote an increase in the amount of expenditure, or an alteration in its destination.

Chapter C: Questions and Answers

Questions and Answers are the third Chapter of the agenda. The question of Representatives and the answers of Ministers to whom they were directed are read by the Clerks of the House.

Questions of Representatives must conform to the Standing Orders on questions and must be brief and shall not contain

any offensive expressions. Questions are sent by Representatives to the office of the House and when it is established that they are in conformity with the Standing Orders, they are conveyed to the relevant Ministry. Questions are read in the House by the Clerk together with the answer.

Chapter D : Subjects tabled by Representatives

During Chapter D, discussion of a general nature takes place on topics tabled by the Representatives with the approval of the House or that arise from a question which has not been answered, or from a reply received from the appropriate Minister which is unsatisfactory. It has prevailed that a Representative may register a subject for debate without this being put before the majority of the House for approval, if the subject arises from a question.

Closure of a Meeting

After the end of each meeting, the agenda of the next meeting is announced. The agenda is established with the consent of the House.

Any Member of the House may move any addition or amendment to such an agenda. Such a motion is decided upon by the House.

Speeches of Representatives

Speeches in the House are made from the rostrum of the House and are addressed to the House. Points of order may be raised by a Representative from his seat. Interruption of the speech by a Representative, personal attacks, and abuse are prohibited.

Voting

Voting in the House is by raising of the hand. The Clerks of the House are responsible for the counting of the votes.

Voting does not take place on each of the topics by counting the votes unless there is an objection. Usually the President asks whether there is an objection to the voting of an article or another issue. When there is no objection the article is approved.

Functions of Clerks

The Clerks of the House are Representatives appointed by the President of the House. Their functions consist of determining whether there is a quorum, counting the votes reading the Questions and the answers, reading the articles and the short title of Bills, and reading the titles of the Bills that have been introduced or other documents. They also keep a register of the Members present at each meeting of the House.

Parliamentary Committees

The Parliamentary Committee are set up by the Committee of Selection which consists of the President of the House as Chairman, the Vice-President of the House as Vice-Chairman, and eight other Members elected by the House.

On appointing the Members of the Parliamentary Committees, the Committee of Selection appoints, at the same time, the Chairman of each Committee as well as the Member who will be replacing him in case of temporary absence or incapacity.

The Committees of the House are representative in the sense that political parties are adequately represented on them in proportion to the total number of their seats in the use.

The Parliamentary Committees of the House generally correspond to the Ministries of the Government and are set up to consider every bill or private bill or any other particular matter that may be referred to them by the House.

On the completion of its deliberations, every Committee prepares a report and sees to its immediate distribution to all Members of the House.

Ministers can be present at the debates of the Committees of the House and express their views; the Committees themselves have a right to summon any interested party, authority, organisation society, association, trade union, person or corporate body to give information and evidence or to express and explain an opinion or view on any bill or subject under consideration.

The decisions of the committees are taken by majority. In case of equality of votes the Chairman or the Member deputising

for him has a second or casting vote. Any disagreement by a member of the Committee and the reasons therefore can be briefly entered, at his request, in the report of the Committee.

The minutes of the proceedings of the Committee are kept in a summary form and copies of them are distributed to all Members of the Committee.

The quorum of the Committee consist of at least one half of the total number of their members.

International Relations of the House

The House of Representatives is active in establishing and promoting relations with other national parliaments and international parliamentary organisation.

At the bilateral level, relations with national Parliaments are promoted through exchanges of parliamentary delegations and other visits by individual Members of Parliaments. In certain cases, these relations are further enhanced through the establishment of bilateral parliamentary friendship groups.

The House of Representatives has also established relations with international parliamentary organisations. The House is a member of the Parliament of the Inter-Parliamentary Union, the Parliamentary Assembly of the Council of Europe, the CSCE Parliamentary Assembly and the Commonwealth Parliamentary Association. As regards the European Parliament, there is a European Community - Cyprus Joint Parliamentary Committee.

FEATURES OF THE PARLIAMENTARY SYSTEM IN EGYPT

Sami Mahran

Development of Parliamentary Life in Egypt

Egypt, even since the rudiments of the contemporary political life, has been acquainted with popular representative councils alongside the Executive Authority. Mohamed Ali Pasha, the then Head of State, had established the Supreme Council in November, 1824, followed by the Consultative (Shoura) Council in 1829. In 1866, Khedive Ismail had set up the Shoura House of Representatives as one of the most influential apparatuses at the time, lasting up to 1882. It was later developed under different titles, ending up with the promulgation of the 1923. Constitution which covered updated constitutional principles such as the separation of powers and Ministers' liability to Parliament. Legislation has become a parliamentary task; however, Egypt's Monarch was entitled to objection. The Parliament as well was vested with the right of monitoring the Executive. The political system had hinged on party pluralism.

In the wake of the Revolution of 23 July, 1952, the royal monarchy was shifted into the Republican regime. The Legislative Council continued to be unicameral, and based on the alliance of the people's working forces until the multi-party system was revived in 1977, bringing the number of political parties to 12, all contesting general elections for the formation of the legislative and local councils and running an influential activity on the political arena.

Egypt had tried the election on the basis of the proportional representation party list system, provided the Party gains 8% of eligible votes in the Egyptian Parliamentary Council elections held in 1984. It was rescinded some time after in 1987, in favour of adopting a system combining individual majority and the proportional list plus 10 appointed members, and in 1990, it restored the now-in-effect individual majority system.

Founding the Egyptian Parliamentary Council

The "People's Assembly", currently composed of 454 members is elected through direct secret ballot. The Constitution stipulates that at least half of them are from among labourers and farmers. Law No. 38 of 1972 defined accurately what is specifically meant by farmer and labourer. It cited that political parties and member of Parliament (MP) candidates should in their electoral publicity campaigns, abide by principles endorsed in a public referendum and expenses agreed. The President of the Republic is entrusted with naming a number of members not exceeding 10.

A member is elected by an absolute majority of valid votes cast in the elections. If the two candidates winning the absolute majority are not from among labourers and farmers, the one who scored the higher percentage of votes is declared legally elected. A by-election is held in the constituency among the two candidates from farmers and labourers who obtains the largest number of valid votes, and in this case, the one who wins the highest number of votes is declared elected.

If the absolute majority is not fulfilled by either candidates in the constituency, a reflection between the four candidates holding the greatest number of votes is conducted, provided that at

least half of them are from labourers and farmers, in which case, the two who win the highest number of votes (provided at least one is a labourer or a farmer) are proclaimed as the elected member with the ballot carried on under the supervision of the Judiciary Staff.

Assembly Term

The People's Assembly term is five calendar years, starting from the date of its first sitting. Election for the new Assembly is held 60 days prior to the expiry of its term. The President of the Republic is not authorized to dissolve the Assembly before its term expires except when necessity calls for it and upon a plebiscite.

The dissolution decision should include an invitation for fresh elections on a date not exceeding 60 days from the declaration of the results of the plebiscite.

The People's Assembly convenes just one ordinary Session annually over a period not less than seven months starting before the second Thursday of November.

Constitutional Warrants for Assembly Members

The Constitution extends guarantees ensuring the independence and freedom of MPs in exercising their competences such as:

The Assembly is exclusively commissioned to decide on the validity of MP membership. The Supreme Court (Court of Cession) being the highest judicial machinery in Egypt - is competent to inquire into the validity of impeachments submitted to the Assembly upon their reference thereto by the Speaker. The Court judgement is then forwarded to the Assembly for consideration of the credibility of the given impeachment. The membership is only deemed invalid upon a decision passed with the majority of two-thirds of the Assembly members.

No membership is revoked except upon a no-confidence vote, dropping one of the membership terms, or missing the quality of being a farmer or a labourer for which he was elected, or failing to accomplish his duties. The membership revoking deci-

sion should be passed upon the approval of MPs.

The People's Assembly is independent as far as acceptance of member's resignation is concerned.

Members are excused in terms of ideas and opinions they express while in the process of performing the Assembly and its committees' tasks.

Unless caught red-handed, no criminal procedures are recommended against the member in question except upon an advance permission from the Assembly.

The People's Assembly draws up its Rules of Procedure regulating its functions and is the sole authority responsible for maintaining order and integrity of its structure.

Assembly Competences

Article 86 of the Egyptian Constitution stipulates that the People's Assembly:

Undertakes legislation.

Adopts the general policy of the State, the general plan for economic and social development, the general budget and the final account of the Budget.

Exercises control over the Executive.

Legislative Power

The Constitution conferred the genuine power of legislation to the People's Assembly. Every member has the right to propose laws. The Assembly itself considers, ratifies, amends or turns down bills presented by the President of the Republic as well as proposed draft laws put forward by MPs. It is, moreover, in charge of considering and adopting, or not, decreed laws released on behalf of the Head of State in compliance with the Constitution wherever necessity deems it fit and in emergency cases upon authorization by the Assembly that is passed with the approval of two-third of its members, and in accordance with terms outlined in the Constitution, in addition to decreed resolutions taken apart from the Assembly when urgency is requested without any further delay on condition of having them submitted to the Assembly

within 15 days, or during the first meeting to come in the event of breaking up the Assembly or suspending its sittings.

The Assembly is authorized to endorse international treaties and conventions. Likewise, the People's Assembly and the President of the Republic have the right to request the amendment of one or more articles of the Constitution.

Therefore, it is quite evident the State's constitutional structure in Egypt does not provide total and full separation between powers, but is rather pinned on the principle of collaboration; thus the Constitution supplies the Executive with a virtually major share of the legislation-making process. This is reflected in the President of the Republic's right to present bills to the Assembly and to issue decrees within the context defined by the Constitution, as well as his right to pass draft laws already-approved by the Assembly or to object thereto within a 30-days period from the date of reporting them to him. Otherwise, the laws shall remain in force even if opposed after the lapse of the said period.

In case the President of the Republic objects to the bill within the same period and refers it back to the Assembly by the given date, the Assembly gives it a second consideration, and once approved by two-third of its members, it is promulgated as a law.

Adoption of the Annual Government Program of Action Plan and Budget

The Constitution renders it obligatory for the Prime Minister to deliver a government statement, tracing out the Cabinet's year-long activity. This is usually done on two occasions, the first on naming government Ministers and the second at the inauguration of every ordinary session. The Assembly deliberates on the program, and if approved, it is an indication the Cabinet is granted confidence.

The bill on the general budget should be submitted to the Assembly at least two months before the fiscal year begins and goes into effect only upon approval.

The draft budget is subject to a chapter-by-chapter voting and is passed by a law. The Assembly is not vested with amending the draft budget except with government approval. The Assembly

endorsement is essential as far as transferring sums from one area to another in the Budget is concerned. This applies as well as expenses not quoted therein, or exceeding its estimates and again are passed by a law.

Control Competences and Auxiliary Organs of the Assembly.

Cabinet Ministers are responsible to the People's Assembly concerning the State general budget. Every Minister is liable for the functioning of his portfolio. This calling into account is manned by the Assembly through its power to employ vehicles of parliamentary control with varying degree that might culminate in a Cabinet reshuffle once the Premier's liability is verified, or in the resignation of any Minister from whom confidence is withdrawn. Techniques of control vary according to the nature of procedures followed, or in other words, in terms of manner of projection, and tabling on the agenda as well as of debate, dismissal or recovery.

The means of control exercised by the Assembly can be summed up as follows:

Question

An interrogation about a matter unknown to the Representative. The latter on posing the Question tries to find out the credibility of a particular incident or still to ascertain government intended action as regards a certain issue. Every member could address a question to the Premier or any of his deputies or to the Minister or Deputy Minister that falls within his jurisdiction. It is, thus, incumbent upon the Premier, deputy Premiers Ministers and Deputy Ministers to answer the members questions.

Notice questions

It is a question the Representative submits to notify the Premier or any of the Cabinet officials of a matter of a public urgent significance that he (the former) came across and which falls within the competence of whom it is addressed to. The member delivers a statement and the Premier replies in brief.

Urgent Notice

A statement involving a serious matter of a public emergency importance that is not included on the sitting agenda. Prece-

dents in the Assembly conceded listening to four urgent statements at most at the beginning of every meeting.

Interpellation

Every Representative has the right to lodge interpellations to the Premier, his deputies, the Ministers and Deputy Ministers asking them to give account for affairs coming within their competence. It is one of the most effective elements of parliamentary control because it is likely to be ensued by a withdrawal of confidence from the member of government questioned. Interpellations are envisaged priority over other items tabled on the agenda next to notice questions and questions.

Putting a question to debate

It is a request to put to Assembly debate a public question with a view to getting better acquainted with the government policy and exchanging views in this regard. Twenty members at least may forward the request.

Fact Finding Committee

The People's Assembly may set up an *ad-hoc* committee or charge one of its committees to monitor the activity of an administrative department, Public institution, an executive or administrative organ or get a public project, in a bid to find out facts and report to the Assembly on the truth about financial, administrative and economic conditions and even to investigate into relevant business.

The Committee is empowered to compile proof, it sees necessary and to request listening to whoever's testimony. All executive and administrative services are asked to respond positively, placing at its disposal whatever documents and vouchers needed.

Reconnaissance and Confrontation Committees

The Assembly may, upon the proposal of the Speaker or of atleast twenty members, agree in principle to set up a reconnaissance and confrontation committee on an important subject falling within the competence of the Assembly. Upon the approval of the Speaker, the Committees may hold meetings for reconnaissance and confrontation purposes, occasionally on probing a draft,

on a proposed bill or studying one of the public important matters referred to the Committee concerned.

Petitions and Complaints

Every citizen, representatives of regular bodies and incorporeal persons may submit to the Assembly Speaker written petitions setting forth their complaints against definite measures or conduct that are incompatible with the Constitution or the law.

Petitions are referred to the Suggestions and Complaints Committee which in turn hands over a report to the Speaker to have them submitted to the government to take the necessary action or to propose introducing an amendment bound to redress negative legislations.

Withdrawal of Confidence

The People's Assembly may decide withdrawing confidence from any of the Deputy Premiers, Ministers, or Deputy Ministers. Withdrawal of confidence is suggested only upon an interpellation and the proposal of 10 members. Confidence is withdrawn with the majority of Assembly Members.

Charging Ministers

The President of the Republic and the People's Assembly may bring to trial the Minister who commits crimes during his stay in office or for reasons having to do with it. The charge should be decided upon the proposal of at least five members but the decision is passed only with the proposal of a two-third majority of Assembly members.

The Assembly Follow-up of Local Administration Business;

The concerned Local Administration, Minister is to report to the Speaker on decisions relating to the dissolution of popular councils and levying fees. He is to prepare a report annually on the activity and achievements of the local councils in the course of the previous ordinary session.

Auxiliary Organs

The Assembly is assisted in undertaking its control function by two bodies:

The Auditing Central Organ: It's chairman presents an annual report on shortcomings, disadvantage and deviations divulged during the Organ's follow-up of the execution of the general Plan and Budget. The Assembly may commission the Organ to compile reports on the work done by respective authorities as defined in the Rules.

The Socialist Public Prosecutor (SPP): The SPP is subject to the Assembly control in enforcing measures, securing the people's rights and the safety of the community and its political system not to mention other competences. The Assembly may assign the SPP to provide any and all data, facts and reports *vis-a-vis* themes falling within its jurisdiction, and to inquire into and scrutinize a definite matter, and to examine thoroughly the activities of authorities pinpointed in the Rules.

The Assembly nomination of the President of the Republic constitutes one of the main political competences as the Constitution stipulates for the Assembly nominating the Head of State and putting the nomination to a public referendum.

The nomination is set off upon the proposal of at least one-third of the Assembly members. The candidate who obtains a two-third majority is referred to the citizenry for a referendum. If the candidate does not obtain the afore-mentioned majority, nomination is recurred, two days after declaring the results of the first vote. The candidate obtaining the absolute majority of the Assembly members is referred to the people in a referendum.

The candidate becomes President if he obtains the absolute majority of those who cast their votes.

Main Organs of the Assembly

One following organs make up the Assembly at the outset of every ordinary session, namely:

The Speaker: he is elected by Assembly members at the inaugural sitting of every ordinary session.

Assembly Bureau : It consists of the Speaker and two Deputy Speakers. The latter are choosen at the opening meeting of every ordinary session immediately after the election of the Speaker.

General Committee: It is chaired by the Speaker and has the membership of the two Deputy Speakers, Chairman of the Permanent Specific Committees of the Assembly as well as representatives of parties' parliamentary bodies and five members selected by the Assembly Bureau, one of whom is from the Independents, should they number 10.

Ethics Committee : It is formed by an Assembly resolution upon the proposal of the Bureau, under the chairmanship of either of the two Deputy Speaker and the membership of Religious, Social Affairs and Wakfs and Suggestions and Complaints Committees, plus five general Committee Members.

Specific Committees

These are 18 such Committees to promote the Assembly exercise of its legislative and control functions; namely: Constitutional and Legislative Affairs Committee; Plan and Budget Committee; Economic Affairs Committee; Foreign Relations Committee; Arab Affairs Committee; Committee of National Defence, Security and Mobilization; Suggestions and Complaints Committee; Manpower Committee; Industry and Power Committee; Agriculture and Irrigation Committee; Education and Scientific Research Committee; Committee of Religious and Social Affairs and Wakfs; Committee of Culture, Information and Tourism; Health and Environment Committee; Transport and Communications Committee; Committee of Housing, Public Utilities and Reconstruction; Committee of Local Rule and Popular Organisation; and the Youth Committee.

THE FINNISH PARLIAMENT

Seppo Tittinen

The central position of Parliament in the Finnish constitutional system is evident from Section 2 of our constitution, the form of Government Act of 1919. The first clause of Section 2 reads: "Sovereignty in Finland belongs to the people, represented by a Parliament convened in parliamentary session."

Finland's Form of Government Act dates from 1919, but a unicameral Parliament was introduced as early as 1906. During the period 1809 - 1817, Finland, as a Grand Duchy within the Russian Empire, had a great degree of autonomy: and throughout that period had its own institution of popular representation, responsible for legislation concerning Finland. The parliamentary reform of 1906 was very radical for its day. It provided for universal and equal suffrage, and women were granted the right to vote and were made eligible for election. Finland was thus the first country although women in New Zealand had indeed previously obtained the right to vote. The number of women in our Parliament has been rather stable. At present, there are 78 women MPS out of a total of 200. (One may add that at the beginning of the present parliamentary term, the mean age of the MPS was 46 years.) Finland does not have an alternate-member system. Representatives who become members of the Cabinet retain their position as members of Parliament.

The country is divided into 14 electoral districts corresponding in general to the division into provinces. The 15th electoral district is the Åland Islands province. The number of MPS to be elected in each district is determined according to the size of their respective population.

Election in Finland are proportional. Votes are for an individual candidate, and there are several candidates in each district. All citizens who have attained the age of 18 years have the right to vote and to stand for election.

The parliamentary term is four years. No minimum number of votes is required for a party to be represented in Parliament. Due partly to this, but partly also owing to our political history, there are at present nine different political groups represented in Parliament.

At present, Parliament is in Session for about eight to nine months a year. At the beginning of every annual Session of Parliament, a Presidium is elected, consisting of a Speaker and two Deputy Speakers. At the beginning of the parliamentary term, 13 specialized committees are appointed, as well as the Grand Committee, which is in a way a relic of past plans for a bicameral system. The Grand Committee consists of 25 representatives and in previous years all bills passed through it.

With effect from the beginning of the 1991 parliamentary Session, the Parliament Act was amended so that Parliament shall, in the first reading, decide whether a bill should be submitted to the Grand Committee. The intention is that controversial matters are sent to the Grand Committee. Bills amended in the second reading are sent to the Grand Committee, as was the practice before 1991.

Overall, it should be kept in mind that the work of the Parliament of Finland consists of three related elements, i.e., work in plenary session, Committee Council is composed of the Chairman of the 13 specialized Committees, the chairman of the Grand Committee and the Speaker and Deputy Speakers.

As a rule, legislation is based on government bills. Annually about 250-300 government bills are submitted to Parliament. In general, bills are handled in three readings.

Bills passed by Parliament are sent to the President of the Republic for signature. The President has, however, the power of a so-called 'suspensive' veto, i.e. the President can refuse to sign a law passed by the Parliament, but if Parliament, in the following annual session again passes the same bill unchanged, it comes into force without confirmation by the President. However, Finnish Presidents have very rarely used their veto power.

Finnish MPs have an unlimited right to initiate 'motions', the equivalent of 'private members' bills. There are three kinds of such private members motions---firstly, motions for a law, secondly so-called

'petitionary motions and thirdly, 'budgetary motions'. The number of private members' motions has in recent years become so large that it is not possible for Parliament to handle them all. Private members budgetary motions, which are handled in conjunction with the budget, are an exception.

Parliament supervises the Government and the administration; for example, various Government reports are submitted to Parliament. In addition, there is an extensive question procedure. Representatives can present written questions to members of the Government, in which case the answer is also given in writing. There is also a question time system for oral questions. Question time is regularly on Tuesday afternoons, at 5 p.m. The most recent form of the Council of State, which is held once a month. At that time the Ministers, under the direction of the Prime Minister, answer questions put by members of Parliament.

One of the most essential powers of Parliament pertains to the budget. Parliament has a definite budgetary power. The budget can be approved by a simple majority.

In principle, all matters handled in Parliament must first be handled in Committees.

In plenary Sessions, representatives have an unlimited right of speech. Their exercise of this right may prolong the Sessions considerably and complicate the planning of the work of the Parliament. In practice, MPS nowadays observe an informal rule; by mutual agreement, speeches will be no longer than fifteen minutes.

A few comments should be made on Finnish parliamentarism today.

According to the Finnish Constitution, the President of the Republic has very extensive powers. One of the most important is his right, upon the initiative of the Prime Minister and after consulting the Parliamentary Groups, to order elections to be held ahead of time. When the President by ordering new elections to be held, dissolves the Parliament, a new four-year term begins after the elections.

The Government must enjoy the confidence of Parliament. According to the Finnish parliamentary system, it is presumed that a Government enjoys the confidence of the Parliament until there is an indication to the contrary. It should be noted, however, that the Council of State must after its appointment without delay, in the form of a

Government statement, inform Parliament of its political programme or lack of confidence, in the Government. When the President appoints a Prime Minister, there is no preliminary consideration by Parliament. Thus the President has a crucial role in the formation of Governments.

If Parliament wishes to change the Government, it must declare its lack of confidence in the Government. In accordance with the Finnish Constitution this can be done, inter alia, by means of an interpellation. An interpellation must be signed by at least 20 MPS. After debate, a vote is taken on the question of confidence. This procedure has been comparatively frequent during the period of Finnish independence. However, it can be said that the resignation of a Government is most often due to clashes between the different parties in the Government, so that the Government dissolves from within.

The basic characteristic of Finnish parliamentarism is cooperation among parties. Because any single party in Finland has only once, after the elections in 1918, had an absolute majority in Parliament, the cooperation of a number of parties is required for the formation of a majority Government. This necessity of cooperation is characteristic of Finnish politics. Compromises are the rule. At present, the largest party, the Center Party, has 55 seats of the 200 in the Parliament.

Currently, Finland has a majority Government, backed by 115 MPS. The parties in the present Government coalition are the Center Party (55), the Nation Coalition (40), the Swedish People's Party (12), and the Finnish Christian League (B).

The parties in opposition are the Social Democratic Party (48), the Left Alliance (19), the Greens (10), the Finnish Rural Party (7) and the Liberal Party (1).

THE FRENCH PARLIAMENTARY SYSTEM

Pierre Hontebeyrie

France's constitutional history has been eventful; the country has had fifteen constitutions in the last two centuries. The regime created by the Constitution of the Fifth Republic on 4 October, 1958, is *sui generis*. Because the President of the Republic wields considerable power in his own right, and because (since the constitutional amendment of 6 November, 1962) he is elected by direct universal suffrage. France's government is often thought to be a combination of a presidential and a parliamentary regime. Yet, France has the principal characteristics of an authentic parliamentary regime—the government is answerable to the National Assembly which can be dissolved by the President of the Republic. Procedures have been modified to eliminate both the governmental instability and legislative incapacity which characterized previous regimes.

The French Parliament has two Houses. In the National Assembly there are 577 deputies who are elected by direct universal suffrage, by a majority vote in two rounds in specific electoral districts. Deputies are elected for a term of five years. The Senate, in which regional interests are represented, is made up of 321 Senators. A third of this House is re-elected every three years.

Senators are elected for nine years to represent France's administrative regions, called departments. They are elected by a college of great electors (principally local elected officials) by proportional representation or by simple majority, according to the size of the department.

The House do not have equal powers. In legislative matters, the Government may allow the National Assembly to make the final decision if the two Houses do not agree. Moreover, a vote on the Government's responsibility can only take place in the National Assembly.

The Parliament meets twice a year in ordinary session. The first session, which begins on 2 October, lasts 80 days, the second, which begins on 2 April, lasts 90 days.

In addition to the ordinary sessions, the Parliament can be called to an extraordinary session by decree of the President of the Republic at the request of either the Prime Minister or the majority of the members of the National Assembly. In the latter case the Parliament can only be convened for a most twelve days. Since 1958, the Parliament has only met once in extraordinary session at the request of the deputies. 51 extraordinary sessions have been called at the request of the Prime Minister.

A parliamentary mandate is incompatible with ministerial functions. A Deputy or a Senator who is named a Minister in the Government has a month in which to choose between his ministerial functions and his parliamentary mandate. At the end of this grace period, if he remains a member of the Government, he is replaced in the National Assembly or the Senate by his alternate, who is elected for this purpose in the same general election.

Although they cannot be members of the Parliament, the members of the Government may attend parliamentary sessions and take the floor whenever they so desire. The Government also has various means at its disposal which enables it to participate in the legislative process.

The role of the Parliament involves two basic functions—one legislative, and the other supervisory with respect to the Government.

The Parliament's Legislative Function

In French constitutional history, making laws constitutes the Parliaments principal function. In this regard, the Constitution of 1958 established a certain number of specific procedures.

The realm of law

Traditionally, a law is defined by its maker: it is the legislation voted by the Parliament which is competent in all matters. The Constitution of 1958 introduced an important new distinction by defining a specific legislative realm. Beyond the areas enumerated restrictively by the Constitution, the Government has the authority to set applicable norms in the context of its regulatory power.

The Government also has the means to protect its executive competence both in the course of the legislative process, since it can block any parliamentary initiative (legislative proposal or amendment) which would go beyond the realm of law, and once the law is passed, since it can have the *Conseil d'Etat* (for laws before 1958) or the *Conseil Constitutionnel* (for later legislation) declare that a legislative text is outside the realm of law and can thus be modified by regulatory decree.

After thirty years of application, it seems that this reform which was considered a real legal revolution at the time, has in fact had limited consequences. First of all, as defined by the Constitution, the realm of law is very extensive, and the *Conseil Constitutionnel* has provided a broad interpretation. Moreover, the Government, which has considerable power in the legislative process and which has almost always found a majority in the National Assembly to support it, soon gave up any attempt to use the means at its disposal to protect its competence. Not only was use no longer made of the procedure of 'irreceivability' applicable to parliamentary initiatives beyond the realm of the law, but the Government itself—either in initial bills or amendments—frequently proposed that the House adopt dispositions which obviously went beyond the realm of law.

Legislative initiative

Legislative initiative belongs both to the Government, which

can introduce bills, and to the members of the Parliament, who can make legislative proposals.

As far as legislative initiative is concerned, this apparent equality is in fact only theoretical. Although many legislative proposals are made, relatively few are discussed on the floor and adopted, most of the laws passed are introduced as Bills. In 1992, in the National Assembly, 193 legislative proposals were made, of which two were adopted. Of the 95 laws passed, 91 had been introduced as Bills.

There are, of course, multiple reasons for such a situation, which is not confined to France, but they do not concern us here. The Constitution of 1958, which stipulates that the Government 'determines and implements the policy of the Nation', gave it the means to carry out its mission legislatively by granting it the right to set the Assemblies' legislative agenda. In point of fact, the Government establishes the essential legislative agenda of the Assemblies which cannot vote a complementary agenda—one in which legislative proposals would have a larger role—unless there is time left to discuss such issues.

As far as the right to amend is concerned, there is a better balance between government and parliamentary initiatives. In 1992 in the National Assembly, 7,606 amendments were proposed—6,529 by the Parliament and 1,077 by the Government, 845 government amendments and 3,076, parliamentary amendments were adopted. Yet, in this respect as well, the Government has significant means at its disposal to block parliamentary initiatives it disapproves of or to further its own goals.

The legislative shuttle

Theoretically, a law must be passed in exactly the same form by both Assemblies. For legislative proposals, the procedure begins either in the National Assembly or in the Senate, depending on whether they are proposed by Deputies or Senators. On the other hand, the government may choose the Assembly in which a bill is to be introduced, although laws of finance must first be debated in the National Assembly.

The text adopted by an Assembly is sent to the other for examination. This legislative shuttle continues until all the dispo-

sitions are adopted in exactly the same form.

This shuttle can, however, be interrupted by the Government. After two debates in each Assembly (or after only one in case of emergency), the Government may request the meeting of a joint committee, called a *commission mixte paritaire*. Made up of seven Deputies and seven Senators, this Committee tries to work out a common formulation of the dispositions the two Assemblies are not able to agree on. If it succeeds, the text which it draws up is submitted to the two Assemblies one after the other. If the Committee does not succeed in drawing up a text or if this text is not adopted by both Assemblies after a new debate in each Assembly, the Government may ask the National Assembly to make the final decision.

This procedure makes it possible to avoid letting a text get bogged down in discussions. It is not, however, applicable in cases of constitutional revision or for organic laws (as defined by the French Constitution concerning the Senate).

The means at the Government's disposal in the legislative process

It should first be underlined that parliamentary initiatives are not receivable when their adoption would mean either a decrease in resources or the creation or increase of public debt. This 'financial irreceivability', which is applied in the National Assembly without the Government's having to make a formal request, limits parliamentary initiative in certain areas.

Moreover, during the debate on legislative proposals or Bills in public sessions, the Government may block discussion of any amendment that was not previously submitted to the appropriate Committee. This procedure is, however, rarely invoked.

The Government may also ask either Assembly to vote on all or part of a text, retaining only those amendments it approves of. This procedure, called *vote bloqué*, is more frequently used to thwart any attempt the majority might make to act independently.

Last but not least, the Government's most effective weapon is to be able to submit its responsibility to a vote when a text is under discussion. When it does so in the National Assembly (the Government itself-defines the content of the text, retaining only

those amendments it considers appropriate), debate is interrupted for twenty-four hours. At the end of this period, the text is considered to have been adopted—without a vote having been called—unless one-tenth of the Deputies make a motion to censure the Government. In this case there is a vote—not on the text itself, but on the motion to censure, which only passes if it is approved by the absolute majority of the members of the National Assembly. This procedure obviously constitutes 'heavy artillery', which may only be used in rather exceptional circumstances. Since 1958, this procedure has been used 76 times. It is incredibly effective, since it leaves the Deputies with no other choice. If they are against a text, but to overthrow the Government. Such a situation has not occurred since 1958.

Guaranteeing the constitutionality of the laws

The final major innovation introduced by the Constitution of 1958 concerns the creation of a supervisory body with respect to the constitutionality of the laws. Until then, in the French legal tradition, the legislator was sovereign and the law was subject to no review. Since that date, organic laws (as defined by the French Constitution) are automatically deferred to the *Conseil Constitutionnel* and ordinary legislation may be so deferred at the request of the President of the Republic, the Prime Minister, the Presidents of the National Assembly or the Senate, and since the constitutional revision of 29 October, 1974, by sixty Deputies or sixty Senators. The Council decides whether or not the legislation in question is in conformity with the Constitution and annuls those dispositions which it considers are not. This guarantee of the constitutionality of the laws has developed progressively and its scope has been considerably widened under the influence of two distinct factors. First, the above mentioned extension of the right to request the court's intervention has led to a multiplication of cases. Secondly, at the initiative of the Council itself, the basis on which constitutionality is judged — the norms to which the laws are subjected — has been widened; in addition to the text of the Constitution, consideration is given to its Preamble, which refers to the Declaration of Human Rights of 1789 and to the Preamble of the Constitution of 1946, as well as to the general principles inherent in the Republic's major legislative acts.

Cheques and Balances in the French Parliamentary Regime

In a parliamentary regime, the Legislative branch must supervise the executive branch. In this context, the French Parliament has at its disposal the traditional methods of information-gathering and supervision. For the most radical among them, the motion to censure the Government—the procedure has been modified to limit the risk of governmental instability.

Questions to the Government

The most traditional way for members of the Parliament to obtain first-hand information on government policy is to ask the Government questions.

Deputies and Senators may first address written questions which the Government must theoretically answer within a month. Practically speaking, notably because of the sharp increase in the number of questions (an indication of current interest in the procedure), this deadline is not always respected the number of written questions grew from 3,705 in 1959 to 13,759 in 1992.

The Constitution also stipulates that once sitting a week be reserved for oral questions. In fact, various procedures have been established. They enable Deputies and Senators either to obtain a public answer to a specific question, often rather technical or of local interest, or to have the Government explain its policy line. One of the weekly question sessions of the National Assembly is broadcast live on television.

Government policy declaration followed by a debate

The Government may take the initiative, at times strongly encouraged by members of the Parliament, to make a declaration which is followed by a debate on current political problems. Such a debate provides members of the Parliament with a fuller explanation of government policy and, if need be, with the opportunity to criticize the Government. Except for the particular case in which there is a motion to censure, there is no vote at the end of this debate.

Investigatory committees

The Assemblies may also exercise their supervisory author-

ity by creating investigatory Committees. The life-span of such committees is limited to six months. They are created to gather information on either a set of given facts or the running of a public service or a national firm. Investigatory Committee reporters have a broad range of powers. Anyone who is called to testify is obliged to appear before the Committee. Moreover, they can examine public records in government offices.

Although this procedure was not in common use at the beginning of the Fifth Republic, it was developed progressively. In the National Assembly, for example, since the beginning of the current legislature, it has become customary to allow each political group to request the creation of an investigatory Committee every year. Thus, up to four investigatory Committees have been operative at the same time.

The vote on the responsibility of the Government

The most effective check on government initiative is the vote on the responsibility of the Government. This prerogative is limited to the National Assembly.

The vote on the Government's responsibility may be requested by the Government or by the National Assembly itself.

The Government may submit its responsibility to a vote to obtain approval of its program or a declaration of general policy. It should be noted, however, that there is no procedure by which the Government is invested with authority. The fullness of its powers is solely attributable to its nomination by the President of the Republic. He may, if he so desires, solicit a vote of confidence in the National Assembly, but he is not obliged to do so. Practically speaking, many Governments have not submitted their responsibility to a vote when taking office.

Moreover, the National Assembly may initiate the procedure by proposing a motion to censure the Government. The motion must be signed by a tenth of the Deputies, with each Deputy only able to sign one motion per session, although an exception is made for those cases in which the Government engages its responsibility on a text. The Vote on the motion to censure can only occur after a moratorium of forty-eight hours. Only the Deputies who are in favour of the motion take part in the vote. To be

adopted, the motion must be passed by the absolute majority of the Deputies in the National Assembly.

If the motion to censure is a procedure which is frequently used by the Opposition to provoke a debate on the policy of the Government, since 1958, it has led to the fall of the Government on only one occasion (5 October, 1962). The procedure does not, in fact, imply that the Government has to have a majority to survive. Rather a majority has to show it is against the Government in order to cause its fall.

If the National Assembly can cause the Government to fall, it can on the other hand be dissolved by the President of the Republic. This power, which traditionally belongs to the Head of State in a parliamentary regime, is not governed by very strict rules in the Fifth Republic. The dissolution is proclaimed by the President, with no ministerial approval necessary, after consultation with the Prime Minister and the Presidents of the two Assemblies. The only real limit is that after a first dissolution, the Assembly cannot be dissolved again for a year after the elections.

The right to dissolve the National Assembly has been used four times since 1958. On the first occasion, 6 October, 1962, the President of the Republic thus responded to the adoption of a motion to censure the Government. The second dissolution, on 30 May, 1968, was proclaimed in the particular context of the political and social crisis of May, 1968, at a time when the majority in the National Assembly was very narrow. In the last two cases, 22 May, 1981, and 16 May, 1988—the dissolution followed a presidential election, since the newly elected President was not of the same political tendency as the majority of the National Assembly.

In comparison with the Constitutions of previous regimes, which were notably characterized by considerable governmental instability, the Constitution of the Fifth Republic has often been presented—and rightly so—as reinforcing the powers of the executive and co-relatively limiting those of the Parliament.

But the phenomenon of majority rule, which has characterized French political life almost constantly since 1958 (a consequence as much of a presidential election by universal suffrage, which favours political bipolarization, as of the electoral process

used for the election of Deputies), has also been a determining factor in the way French institutions work.

In this context, the parliamentary majority, especially one which, in the National Assembly, supports a Government of the same political tendency, makes it possible for the Parliament to fulfil its primary role, *i.e.* to vote legislation.

The supervision of the executive branch, which more naturally concerns the Opposition, must also be considered. If gathering information is more important than censuring (the Parliament remain, without a doubt, the place where the Government explains its policy), this is due less to up-dated procedures than to the existence of a majority.

The relative importance, in the National Assembly, of a majority and an Opposition also conditions political life to a great extent. When there is only a narrow majority, the Government must make concessions in order to guarantee the adoption of the laws it needs to implement its policy. When there is a wide majority, the Government's position is significantly stronger.

THE RESPONSIBILITY OF MINISTERS IN THE FRAMEWORK OF THE GREEK CONSTITUTION

Nikitas G. Koveos

According to article 1, par.1 of the Greek Constitution of 1975, "the form of government of Greece is that of a Parliamentary Republic". The Constitution adopts the traditional distinction between the collective responsibility of Ministers and the individual responsibility for one's own acts (art. 85). In addition to that, article 35, par.1, provides that no act of the President of the Republic shall be valid unless it has been countersigned by the competent Minister, who, by his signature alone, shall be rendered responsible.

This having been said, the responsibility of Ministers follows the classic scheme of all parliamentary regimes and it may thus be of three kinds: political, criminal and civil. We shall discuss the three kinds of ministerial responsibility starting by the political responsibility, which in all classic parliamentary regimes—such as the Greek—takes place before the Chamber which represents the people. The Greek Constitution provides a system of one Chamber; therefore the Ministers are politically responsible before

one single Chamber, *i.e.* the Chamber of Deputies.

The political responsibility

The Constitution and the Standing Orders of the Chamber of Deputies provide all classic means for parliamentary control of Ministers. This control covers a great diversity of operations which may start from purely informative ones and go up to the responsibility of the Government. One must therefore well distinguish the means of control provided for ascertaining the information of the House from those which set to work the responsibility of the Government as a whole, or any of its Ministers.

In this text we are interested in the latter case; therefore we shall only name the means of parliamentary control available for the mere information of the House which do not involve political responsibility: Except for the classic means of parliamentary information, such as question, application to submit documents and investigation committees, the revised Standing Orders of the House—modified in 1990—introduced new means of control which aim at the reinforcement of the action of Parliament on the Government but which do not affect the political responsibility of the latter one.

These new means of control include the 'debates before the agenda of the meeting' which may take place four times in each parliamentary session between the Prime Minister, the Ministers and the leaders of the parliamentary groups and the 'questions to the Prime Minister' which are addressed by the leaders of the parliamentary groups; thus twice per month, the Prime Minister is obliged to face one of the leaders of the Opposition in a debate limited between the two.

In addition to that, the Standing Orders provide for a kind of 'hearings', after the American pattern, before the Standing Committees of the Chamber. Thus, "in order to facilitate the parliamentary control exercised by the Plenary Session", (article 41 A of the Standing Orders) the Committees are entitled to invite to appear before them, Ministers, Vice-Ministers or officials of the Public Administration.

The political responsibility of the Government as a whole, or of any one of the Ministers separately, is activated by the

interpellations and the motion of censure. The interpellation is a "previous warning" addressed to the Government by which the Chamber requires the former one to give explanations on the exercise of its authority. The revised Standing Orders of the House, applying from 1987, provide for a new type of interpellation: the so called 'current interpellation.' It is designated to oblige the Government to give definitions on the administration of a concrete and current issue of political life within a limited delay. One basic difference between interpellation—simple or current—and the motion of censure is that the former one never comes to a vote.

The only means of parliamentary control which result in a vote is the motion of censure which may either be against the Government as a whole, or against one or more Ministers. This comes as the result of a very clear choice made by the Constituent Assembly of 1975 in favour of the 'rationalized parliamentarism' whose essential aim is to ascertain the governmental stability. Therefore, within the framework of a parliamentary control, the House cannot otherwise oblige judicially the Government or any Minister to resign but only through the approval of a motion of censure. The care to ascertain the governmental stability is made obvious throughout the constitutional procedure on the motion of censure which is exercised under the same conditions, whether against the Government as a whole or against any one of the Ministers separately.

Thus, article 84 of the Constitution provides the procedure according to which the proposition must be signed by at least one sixth of the total number of Deputies and may not be adopted unless voted in favour by the absolute majority of the total number of the Members of Parliament. Moreover, a motion of censure may not be proposed unless a period of six months has expired from the time when a previous motion of censure was rejected. It is, however, possible to present a motion of censure at any time if signed by more than half of the total number of the Members of Parliament. On this point it should be underlined that par. 4 of article 84 regulates in a rather strict way the conditions on the discussion and vote of the motion of censure. The discussion, unless otherwise decided by the Government, takes place two days after the deposit of the motion of censure and may not last more than three days.

In principle, the scrutiny must take place immediately before the discussion. These fairly severe restrictions which have to be satisfied in order for the Cabinet's responsibility to come into play, were introduced as a reaction against the numerous and interminable discussions which were allowed in these cases under the previous Constitution. However, it is typical of the restrictions introduced by the Constitution of 1975, that under this Constitution the censure of a Minister has never been proposed. At the same time, no one of the motions to censure the Cabinet in its entirety has been approved today.

Criminal responsibilities

The fundamental principles which determine the criminal responsibility of the Members of Parliament are to be found in the Constitution. Further, the process whereby a Member of Parliament may be prosecuted and judged, is determined by the Parliament's Standing Orders and the legislative decree 802/1971.

The Constitution establishes a system of ministerial immunity which only the House may decide to remove. In fact, article 86 of the Constitution determines that no main or preliminary criminal investigation may be undertaken against a Minister for acts or omissions committed in the exercise of his functions, without a prior *ad hoc* resolution of the House to this effect. If, in the course of an administrative inquiry, evidence should arise adequate to establish responsibility of a Minister, those in charge of the inquiry shall not forward the evidence to Parliament before the termination of the same.

Otherwise, while for all political crimes and offences, the power to suspend the prosecution belongs as a rule to the Minister of Justice acting, according to the Code of Criminal Procedure, pursuant to a decision of the Cabinet; in the case of Ministers it is determined that only the Parliament has such a right.

The right to accuse Ministers belongs to the Parliament. The Ministers are judged by an *ad hoc* Court, which is presided by the President of the Supreme Civil Court and is composed of twelve judges chosen by lot among all the justices at the Supreme Civil Court and all the Presidents of the Courts of Appeal which have acceded to their office prior to the commencement of

the prosecution; the selection by lot is done by the Speaker of the Parliament during a public sitting of the same.

There is a special statute of limitations for such offences which provides in fact for a very short term, that is, the expiry of the first session of the Parliament immediately following the deed. The proposal to bring charges against a Minister in front of the Court mentioned in article 86 of the Constitution must be signed by a minimum of thirty Members of Parliament. The proposal is included in the House's order of the day within eight days following its submission and the debate, which has to take place in a plenary sitting, must revolve strictly around the issue of whether the Parliament should order the commencement of a criminal investigation. The plenary session of the House decides by secret ballot. If the proposal is rejected, it cannot be repeated. If, on the contrary, the proposal to have an investigation is approved, the House proceeds to the formation of a committee composed of twelve of its members, proportionately representing the several political parties in Parliament; this committee undertakes the investigation within the delay set for the presentation of its report.

Once the report is submitted to the Speaker, the House determines by secret ballot on the proposal of the committee, and this separately for each and every act or omission imputed to the Minister. If the proposal is rejected, no other proposal grounded on the same facts is acceptable; on the contrary, if the proposal is upheld, the House proceeds to the formulation of the charges and designates three of its Members to advocate on its behalf in front of the Court provided in article 86 of the Constitution.

Otherwise, the framers of the Constitution of 1975 have provided for a 'jury of honour'. This is notably the case when the process commenced pursuant to the proposal to bring charges against a Minister, was not concluded in time for any reason whatsoever, including the case where it succumbed to the statute of limitations; in such cases the House may, pursuant to the petition of the person accused, decide to constitute a special committee of Members of Parliament and high-ranking magistrates to examine the accusation.

In this case, the Standing Orders provide for a mixed committee of a total of seventeen members, of which twelve are Mem-

bers of Parliament and five are justices at the Supreme Civil Court. The Members of Parliament are appointed by the Speaker, proportionately representing the several political parties in Parliament, while the justices are selected by lot from among those who have acceded to their office prior to the accusation. The participation of the justices aims at enabling the Opposition to obtain a majority in this committee, should the judges side with it. This committee has the powers of an examining committee and files its findings with the Parliament.

Civil responsibility

The Greek legal order has long accepted the Civil responsibility of Ministers. A citizen who suffers damage from a Minister has the right to seek the protection of his rights before the courts. In fact, this right is not even mentioned in the Constitution, as it is considered a self-evident feature of ordinary law.

Nevertheless, legislative decree 802/1971 on the criminal responsibility of Ministers establishes the competence of ordinary courts, while also providing for a parallel responsibility of the State, provided that the Minister accused is actually condemned by the Court of article 86 of the Constitution, unless the offence was committed in breach of a rule established for the protection of the general interest. By contrast, should the Minister be found innocent, no civil action may be commenced against him.

THE IRISH PARLIAMENT

K.Coughlan

Ireland is a parliamentary democracy. The Oireachtas (National Parliament) consists of the President and two Houses: a House of Representatives called Dail Eireann and a Senate called Seanad Eireann. The sole and exclusive power of making laws for the State is vested in Parliament. The functions and powers of the President, Dail and Seanad derive from the Constitution of Ireland (*Bunreacht na h-Eireann*). The first Dail which met in January, 1919 adopted a short provisional Constitution. The second Constitution, the Irish Free State Constitution, was enacted in 1922 and provided for the establishment of a Senate which held its first meeting in December of that year. The present Constitution was adopted by referendum in 1937.

The Constitution provides that the Government shall consist of not less than seven and not more than fifteen members. The Taoiseach (Prime Minister) is appointed by the President on the nomination of the Dail. The President also appoints the other members of the Government on the nomination of the Taoiseach and with the prior approval of the Dail. The Taoiseach nominates a member of the Government to be the Tanaiste (Deputy Prime Minister). All members of the Government must be members of

either the Dail or Seanad. The Taoiseach, the Tanaiste and the Minister for Finance must be members of the Dail and not more than two members of the Government may be members of the Seanad. Ministers of State who must be members of either House may be appointed by the Government up to a maximum of fifteen.

The Legislature

Every citizen over twenty-one years of age who is not disqualified by the Constitution or by law is eligible for membership of the Dail and Seanad. Each House elects its own Chairman (*Ceann Comhairle* in the case of the Dail and *Cathaoirleach* in the case of the *Seanad*) to preside over its sittings. Day to day procedure derives from a number of sources such as Standing Orders, *ad hoc* orders and resolutions, rulings of the Chair and practice over the years. The normal sitting days prescribed by Standing Orders are Tuesdays, Wednesdays and Thursdays. Each House has the power to appoint days of sitting other than those. Sittings are held throughout the year with short breaks for Christmas and Easter, the main recess being during the summer months. Utterances made by members in either House are privileged and members have the privilege of immunity from arrest in going to and returning from, and while in the precincts of, either House.

Dail Eireann

The Dail is composed at present of 166 members, known as Teachtaí Dála or TD's. The maximum life of the Dail as prescribed by the Constitution is seven years but a shorter period may be fixed by law. The present law provides for a maximum period of five years but the Taoiseach may recommend dissolution at any time. The Dail is summoned and dissolved by the President who is empowered to refuse a dissolution only where the Taoiseach has failed to obtain a majority in the Dail.

The business of the Dail falls into four broad categories: consideration of proposals for legislation; consideration of State expenditure; discussion of motions; parliamentary questions.

Legislation: Nearly all proposals for legislation are presented by the Government in the form of Bills. A private member (a member who is not a Minister or Minister of State) may also initiate legislation. However, very few Private Members' Bills are

passed. A Bill undergoes five stages or readings. At the third (Committee) stage a Private Member's Bill is considered in Select or Special Committee while a Government Bill is considered in Committee of the whole House unless otherwise ordered. A Bill may be amended at the third and fourth stages. After the fifth and final stage it is passed by the Dail and sent to the Seanad for consideration. After a Bill has been passed by both Houses it is sent to the President for signature and promulgation as law.

State Expenditure: Under the Constitution, the Dail has exclusive responsibility for considering the estimates of receipts and expenditure of the State and for approving international agreements which involve charges upon public funds. All monies required by the Government for both capital and current expenditure are voted by the Dail.

Motions: Any member may put down a motion for debate in the House. The Government frequently moves substantive motions to approve policy decisions. While motions moved by a member other than a member of the Government or a Minister of State are generally debated in Private Members' Time—a period of time allotted on certain days to the consideration of private members' business—a member may also request leave to move a motion that the House adjourn to discuss a matter of urgent public importance. A motion under this procedure, if in order, must receive the support of at least twelve members.

Parliamentary Question : Standing Orders afford members an opportunity to question, a member of the Government about public affairs connected with his department or Ministry of administration for which he is officially responsible. Questions may be submitted for oral or written reply and a specific time is set aside to deal with them. (There is also provision for members to raise on the adjournment of the Daily matters of administration relating to a Minister's department. A time limit is applied to both the member's contribution and the Minister's reply.

Seanad Eireann

The Seanad is composed of sixty members. A general election to the Seanad must take place not later than ninety days after the dissolution of the Dail.

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The main function of the Seanad is the consideration of legislation passed by the Dail. The sittings of the House are therefore largely dependent on the volume of work sent to it from the Dail. Bills passed by the Dail may be amended by the Seanad but only rarely are any significant amendments suggested. Bills, other than Money Bills or Bills to amend the Constitution, may be initiated in the Seanad and while there is provision for Private Members' Bills, in practice almost all Bills initiated are proposed by the Government. The Seanad's function in relation to the finances of the State is limited to the consideration of the Bills giving legislative effect to financial proposals. While it may make recommendations it cannot amend them however. As in the case of the Dail there is provision in the Seanad for motions to be considered in non-Government time. Members may also raise certain matters on the adjournment of the Seanad and may move the adjournment to discuss a matter of urgent public importance in a similar fashion to the Dail.

Oireachtas Committees

The Oireachtas establishes a number of Committees, consisting of members of one or both Houses, to deal with certain aspects of its work. A Committee may consider only a matter referred to it by the House(s) through its Orders of Reference. Committees are not empowered to make final decisions. They prepare reports on the matters examined for the information and assistance of the Houses.

Certain Committees are required under Standing Orders to be appointed by each new Dail and Seanad. In addition to these Standing Committees a number of *ad hoc* Committees are usually established to deal with specialised subject matters.

The Electoral System

How the Dail is Elected

The 166 members of the Dail are, at present, returned by forty-one electoral areas or constituencies. The Constitution requires that the total membership of the Dail be so set that the national average population per member will be between 20,000 and 30,000. The constituencies must be revised at least once in every twelve years to take account of changes in population. No

constituency may have less than three members.

Irish and British citizens over the age of eighteen years who are resident in the country are entitled to vote at a Dail election. Voting is by secret ballot and on the system of proportional representation by means of the single transferable vote. Under this system, the elector can indicate a range of preferences by placing a number opposite candidates' names on the ballot paper. The ballot papers are initially sorted according to the first preference votes recorded for each candidate and any candidate who receives a quota or more at the first count is deemed to be elected. The quota of votes, which is the minimum necessary to guarantee the election of a candidate, is calculated using the Droop method. A process of transferring votes takes place in subsequent counts until all seats have been filled. By-elections are held to fill seats which fall vacant between general elections.

How the Seanad is Elected

The Seanad consists of sixty members; eleven are nominated by the Taoiseach; three are elected by the National University of Ireland and three by the University of Dublin; and, the remaining forty-three are elected from five panels formed of people with knowledge and practical experience of certain interests and services. Each panel is divided into two sub-panels: one composed of candidates nominated by any four members of the Dail and outgoing Seanad and the other composed of candidates nominated by registered groups in the spheres of culture and education, agriculture, labour, industry and commerce and public administration and social services.

The electorate for the panel members is composed of members of the Dail, members of the outgoing Seanad and members of country councils and county borough councils. The elections are held on the system of proportional representation by means of the single transferable vote and by secret postal ballot. Seats which fall vacant between elections are filled by appointment or through by-elections.

**PARLIAMENTARY INFORMATION AND
DOCUMENTATION IN THE ITALIAN SENATE :
EXPERIENCES AND PROSPECTS**

Damiano Nocilla

It is often argued that the principle of openness in parliamentary proceedings was born with modern parliaments. In June, 1789, Louis XVI was forced to repeal the provision which forbade strangers to attend the proceedings of the Estates General. This marked the transition from an assembly of classes, shaped upon the model of medieval assemblies, to the new National Assembly, which was to become the model for modern Parliaments in continental Europe. It has therefore been suggested that the fundamental principles of parliamentarism lie in openness and discussion (Schmitt).

This principle was then explicitly affirmed in Article 1 (Section II, Chapter III, Title III) of the French Constitution of 1791, which read: "Deliberations by the legislative body shall be public and the minutes of its sittings shall be printed". If we break down this provisions into two parts, we realise that the principle of openness covers two different aspects, each of them related to a different function and to two different types of publicity.

Each of them has its own history with separate, though parallel developments; at times they may intersect, especially whenever one single instrument of publicity occasionally carries out both functions.

The first function is ideally described in the initial part of the provision, whereby "deliberations by the legislative body shall be public". It is associated with the idea that assembly sittings are attended by the People, because all the People is represented; this implies that any activity by Parliament must taken place according to the principle of transparency so that unhindered control may be exercised. In some way this statement enshrines the concept that the Houses' activity is, in its own nature, and outwardly exercise. It is not by chance that Guizot put together and on an equal footing openness of proceedings and freedom of the press.

The other function is illustrated in the second part of the provision, whereby "the minutes of its [the legislative body's] sittings shall be printed".

This form of publicity is however aimed at witnessing the activity of the Houses, i.e. at ensuring the historical reconstruction of events, thus making legal interpretation of laws and subsequent political information easier. In more conventional and broader terms it could be referred to as a "publicity for documents", which was conceived for the use of those who, having a specific interest and requiring access to it in order to find out certain facts, produced a specific demand.

Historical and logical reasons lead us to consider the first type of publicity as a starting point for our discussion. The proceedings of representative assemblies take place in a sort of *agora*, where the People ideally gathers: a symbol of this opening of Parliaments to the People can be found in the rule which is still in force at the National Assembly, whereby the first ten people who show up at the House are granted access to the public galleries.

In this sense, however, the principle of openness of parliamentary proceedings, from its very origins and at least in some respect, ran counter to the then prevailing belief that the Assembly and its Members were representing the nation without a bind-

ing mandate. The members of the Constituent Assembly of 1789 (Sieyès, Barrère, Barnave) were against the notion of a monarch as the sole entity representing the unity of the State community and the sole interpreter of the so-called general (or national) interest: the representative assembly, too, had to stand as the embodiment of the principle of unity.

The individual Members of Parliament, as representatives of an abstract nation incapable of willing but through its own delegates, were the bearers of their own wills which made them free from external influence, direction or ties. They were asked to decide *d'après la raison et la justice*—as Condorcet put it.

But this ideal freedom of judgement by the representatives and their abstract capability to pursue the general interest were in turn contradicting the principle whereby they had to be elected by all citizens. This bond between voters and elected representatives, which had been rejected in principle, came to exist *de facto* and was to become closer and closer as the democratisation process developed. The Jacobins were well aware of this, as shown by Robespierre's statement: "If you want democracy, be close to the People". The accountability of elected representatives before their voter implied the need for the latter to know and scrutinise the work of the former.

The very contradiction inherent in the notion of political representativeness—as an abstract representation on the one hand and an actual relationship between voters and elected representatives on the other—was probably at the basis of later debates on the need to open the Houses to outside people.

This ambiguity re-emerged in the long-lasting rows on the reporting of Members' contributions that preceded the arrangement for an official reporting service first in the British and then in the French Houses of Parliament. It came to the forefront again much more recently when the cameras entered Parliaments for television broadcasting - as late as 1989 in Westminster! Some maintain that television is in itself indiscrete and may turn debates in a sort of Tribunes' fora, whereas others believe that opening the Houses to the public and awakening the citizens' legitimate interest in the work of their representatives is in the interest of the parliamentary institution.

As is well known, information can precede or follow a certain event : in the first case we see an anticipation of an event which is likely to occur (a debate on a certain subject or the enactment of a procedure in Parliament), whereas in the second we receive information on when and how an event took place.

Antecedent information in the Senate is guaranteed through the dissemination of two specific documents describing future activity by the Assembly: the calendar for the following month and the agenda, including provisions to be discussed on the following sitting day. These two official papers are highly reliable in that they are envisaged in the Rules and may be dispensed with only in exceptional cases. In addition, a press communique is released to provide a summary of the calendar and underline the major political issues under discussion.

As far as the Committees are concerned, antecedent information is ensured through the dissemination of the agendas of coming sittings, published as a rule at the end of the previous week but providing only an indication of the subjects likely to be examined. At one point we had thought it useful to give timely notice of the issues planned for debate in the running week. At any rate the Press office of the Senate duly informs of what will or will not be actually discussed in the Committees.

Openness of the proceedings of legislative assemblies was characterised from the very beginning by public attendance of sittings. Today, this is regulated by Article 64 of the Italian constitution and, in the case of the Senate, by Articles 70, 71 and 72 of its Rules. In 1990 about 3,000 people followed the sittings either from the galleries or from the press room through an intercom system.

Moreover in the Constitution it is also stated that "the Rules decide the ways in which the work of the Committees shall be made public."

this objective was achieved through a lengthy and painstaking process. In November 1988, a Rule was established that whenever Committees sat as legislative or drafting bodies, "access to the proceedings is guaranteed through audio-visual systems placed in separate rooms made available to the public and the

press". For any other meeting—except when the Committees sit as reporting or advisory bodies—the Chairman may provide for the same form of access upon the committee's request.

Today this recent important reform of the Rules enables the press in the Senate to follow most of Committees' proceedings through a closed-circuit television system.

The early parliamentary reports appeared thanks to public attendance of the sittings, in particular thanks to the presence of journalists. They were drawn up by journalists, outside the official framework, and disclosed through publication in various gazettes, thus ensuring informal subsequent information. In the past this resulted in difficult relations between the press and parliament who feared that the substance of floor contributions and deliberations could be misunderstood and that such form of disclosure could affect the freedom of speech of Members. This reminds me of the long amount of time which was necessary before the House of Commons lifted the prohibition on the publication of its debates, and of the complaints repeatedly made in France on the mistakes contained in the informal reports published in the *Moniteur*. Only in the first half of the 19th century the idea of official reports edited by Parliament gradually took shape, even though with some difficulty.

It must be borne in mind that at that time political information as a whole was tantamount to parliamentary information. Hence, the creation of an official means of information, based on criteria of impartiality, timeliness, completeness, and neutrality, was intended to meet the need for providing the press with material to be used in order to inform the public-at-large.

If we draw a distinction between communication, as an activity aimed at improving relations with the public, and information, as the impartial conveying of news to external individuals for their processing, we can understand how parliamentary reporting was conceived to carry out both functions. From an historical viewpoint, it was the first implementation of the principle of "communication by the institution" and indeed it is quite difficult in actual terms to separate information from communication, for all information is an instrument of communication and all communication must also provide information.

The reporting activity in the Senate is clearly defined and regulated in the Rules Articles 11, 33, 48, 60, 89, 112, 115, 117, 126, 146, 152, 153, 154, 157). In broad and simple terms, we can speak of two different types of report of Assembly sittings: summary report and a verbatim report. The former contains a comprehensive description of the proceedings and a summary of the various contributions; the latter faithfully reports all that happened during the sitting, and includes a verbatim transcription of contributions and interruptions. As regards the Committees, we publish a "summary of proceedings" (called Journal), which is basically a summary report of all sittings and, later, a verbatim report of meetings where Committees sit as legislative or drafting bodies, conduct fact-finding enquiries, put questions to the Government, and discuss the State budget and the appropriation bill. This is the result of a slow evolution from the 1st Parliament, when only a summary report was drafted for legislative or drafting sittings of Committees, and a short communique was attached to the summary report of the Assembly for all other Committee sittings.

The above-mentioned types of reports are still the main official work tool; the Italian Senate prints 2,850 copies of Summary Reports and the Committees' Journal and 1,400 copies of Verbatim Reports to provide parliamentary information, both within and outside the House. About 800 of those are sent to external bodies and individuals for information and documentation purposes.

As a matter of fact, reports served and still serve the double purpose we described in the beginning: on the one hand, they are used to diffuse Parliament-related information outside the Parliament. On the other, they provide documentation for future users, who may want to have access to information about past activities.

Before considering their function as sources of documentation, it is opportune to take into account reports as sources of immediate information about parliamentary activities, a function which has been so far fulfilled by Summary Reports and the Committees' Journal. Drafts of the former are sent to the press Room during sittings, reporting about parliamentary proceedings shortly after they have taken place. Drafts of the latter are made available only about two hours after the sitting has ended; in

order to avoid this inconvenience, it was decided during the Ninth Parliamentary term to distribute a "flash" note after each committee sitting with information about the subjects discussed, the decisions made and the programmes formulated.

All Summary Reports concerning either the Assembly or the committees are printed, published and distributed on the day following the sitting and are considered a kind of Senate Journal.

Until recently, on the other hand, a few days elapsed between the drafting of Verbatim Reports—containing more exhaustive information and their distribution, which allowed speakers to revise and correct their own speeches before publication.

In recent years, however, the introduction of new technologies made it possible to draft and print reports far more quickly: today, the two Houses release a first version of Verbatim Reports (the so-called "immediate" Verbatim Reports) on the morning following the sitting.

It is likely that a more extensive application of the new technologies to drafting and printing procedures would make the distribution of Verbatim Reports as fast as that of Summary Reports; a mere source of documentation until yesterday, Verbatim Reports could thus become a timely and complete information tool.

Although they are useful to those who work in the parliamentary sector, however, the above-mentioned publications prove obsolete when compared to the new procedures applied to the publication of newspapers and to the increasingly rapid forms of communication introduced by radio and TV.

The French National Assembly and the European parliament, for instance, release "flash" news as events take place: if that type of information were made available in Italy through Televideo—the Italian version of the teletext service—it would reach immediately about six million TV sets connected to that service. It is estimated that about 2.5 million people tune in Televideo every day.

In this respect, it must be noted that since 1990 the Chamber of Deputies and the Senate have made available through Tel-

evideo—as an experimental initiative—news extracted from "Summary Reports and Committees" Journals only one day after their publication and distribution. These include the bills passed during the month, the Assembly working calendar together with the agenda for the next sitting and a summary of the activities performed by the Assembly and the Committees. In short, this experience may lead to very satisfactory results in the future.

One thing is certain: the creation of such media as radio and TV, whose technologies are becoming increasingly sophisticated, has produced major modifications in the world of information. These concern not only the increased rapidity of the news media, but also the quality of information: no longer introduced and commented upon by a journalist, information must necessarily be clear and self-explanatory. Furthermore, the relationship between parliament and the mass media is changing: the task of identifying problems and submitting them to public debate is fulfilled by the latter, while the former tend to keep pace with the media. This trend has resulted in the live radio broadcasting of debates—which started at the time of the Constituent Assembly—and later their telecasting, starting in the '60s.

State channels cover parliamentary activities in the context of political information and offer special programmes on this subject. These include a few radio and TV programmes reaching about 1.5 million people, shaped after the programme "Oggi al Parlamento" (Parliament Today), as well as "Le commissioni Parlamentari" (Parliament Committees) and "sette giorni al Parlamento" (Seven Days at the Parliament), respectively a radio Weekly programme and a TV show reaching about 0.5 million viewers. Furthermore, State TV channels televise—either live or recorded—Assembly and committee sittings as well as interviews with majority and Opposition members and special reports on the activities of the two Houses and their Committees. The amount of coverage is considered sufficient by radio and TV decision-makers.

Private radio and TV channels—which were granted free access to the Senate at the end of the past parliamentary term—also offer some coverage of Parliamentary activities. The unofficial broadcasting of parliamentary debates by Radio Radicale and the "Parlamento In" programme aired by a private TV channel are also

worth mentioning.

The solution of the problems linked to the so-called tele-casting dilemma and the wish to devote more space to Parliament in the general context of information raised the question of the televising of Parliamentary proceedings.

Article 24 of Act N 223 of 6 August, 1990 concerning the regulation of the state/private radio and TV system establishes that the state broadcasting agency be authorized to create a fourth radio channel covering exclusively Parliamentary news. In this connection, the Presidents of the two Houses have started the procedures required by law for the creation of such network.

Further potential is offered for the future by cable television, which would make it possible to televise simultaneously sittings of both Houses and show them to external users such as newspaper editorial offices, public administration offices, political parties' headquarters, etc. This would enable them to follow Parliamentary proceedings they occur.

Since the beginning of the century, however, the gap between political information and Parliamentary information has been growing steadily, and the birth of television has accelerated that process. With the creation of modern parties and the increasingly powerful role played by the Executive, Parliament has lost its role of exclusive stage for political action. In our *parteiënstaat* (Parties state) the most important political information comes from places other than Parliament, *i.e.* the political parties' headquarters and the Government.

Parliament is the place where the final decisions are made and policies are officially adopted. Its work, however, is organised according to procedures that the public may find difficult to understand and to a complex set of rules which may give an impression of lengthiness. Furthermore, it has been observed that the timing of parliamentary activities is particularly slow if compared to the fast pace of newspaper editing, and Parliament works so slowly that it is often impossible to include news about it in the daily media.

Newspapers, radio and television tend to report news in the making, without waiting for formal acknowledgement by "Parlia-

ment. The press rooms of the two Houses of the Italian Parliament are still the place where the most intensive circulation of political information takes place, but that information usually comes from outside and gets there in the form of gossip.

Subsequent information on Parliamentary activity is so abundant—although it is provided almost exclusively by publications—that there seems to be a surplus. On the other hand, antecedent information which would enable the mass media to focus their attention on certain debates rather than others and select the most interesting seems to be lacking.

The difficulty for parliamentary information to gain its own space in the broader context of political information is made even bigger by the crisis concerning the latter: in Italy, communication on political matters is not easy, because the language used is difficult to translate or to understand for the majority of people, who have become progressively estranged from politics. In addition, our profit-oriented mass media tend to prefer sensational or entertaining news.

In order to restore its image as a key-element of our political life, therefore, Parliament will have to devise new ways to make its work known—as it did during the first half of the 19th century—and better coordinated, so as to raise new interest on the part of the public.

This is just the purpose for which public relations offices or committees have been created in several Western Parliaments, including the Italian Senate. From 1960 onwards, the President's Press Office has gradually and subtly changed in order to meet the above-mentioned need and is now an office to which all Senate bodies have access.

This new approach has inspired many other initiatives, such as the decision to give access to Parliament to visiting groups and students—in 1990 about 25,000 people, mainly students, have visited the Senate the publication of more or less specialized books and collections, the attendance at exhibitions and fairs—the Senate and the Chamber of Deputies had their own stands at the 20th press and Information Show and the 4th Book Fair in Turin—and the decision to open the Parliament libraries to the

public.

The most important innovation, however, concerns the Parliament's main role, *i.e.* its legislative power. The crisis of the liberal State of the 19th century and the creation of the Welfare State following the increased participation of people in the political life have caused a growing presence of State of the economic scene, the progressive fragmentation of social classes and the proliferation of political associations, in short the birth of a multitude of groups and interests within society. The very concept of law, as it took shape during the past century, seems bound to change.

Laws are no longer general, abstract and preventive. They are no longer the highest legislative source and codes no longer enjoy a central role. Law-makers today regulate different fields in different ways and lay down the objectives to pursue in individual cases; to overcome social imbalances, they modify the free course of social life in favour of particular people, classes and professions. The number of laws is increasing and modern legislation tends to be more specialised and focused on the field being regulated. Different values and interests require or bring about particular disciplines; laws are constantly modernised in order to cope with the rapidly evolving social requirements. Many laws are being passed providing incentives and general guidelines.

As a result of all this, the main characters and activities of Parliament are changing, Parliament is becoming the place where laws concerning specific sectors of society are discussed. More legislation goes through specialised Committees than through the whole House: there is a shift from a *Redepartement* to an *Arbeitsparlament*.

Laws communicate by themselves—as was correctly argued—and they are no longer addressed to all citizens, but to those directly involved: therefore, they use a highly specialised language, which has substituted for the more general language of the past.

The approach of mass media to Parliament has changed. They provide users with all the data they need in order to look after their interests and enable them to gather more detailed information on the issues in which they are interested. Users indeed

expect mass media to contribute to their knowledge of the specific sectors in which they operate. "If a suer-citizen ignores the real contents of a law which concerns him, he loses self-confidence and confidence in the State" (Ostellino). In this regard, attention should be drawn to two important aspects. Firstly, the most detailed information on Parliamentary business is provided by the economic press: this shows how close is the connection between laws and the interests of citizens. Secondly, in the press footage of parliamentary activities we can see that general reporters are being gradually replaced by specialised journalists, who can provide more complete and detailed coverage.

These changes will surely be reflected on parliamentary information which, although less sensational than other kinds of information, is more accurate and enjoys the advantage of being addressed to citizens according to their interests. The new requirements of society call for a new order of information addressed less to the general public than to the specific sectors of society interested in what Parliament has done or is doing in relation to a particular issue, the various standings of political and parliamentary leaders, the effects of certain decisions, the stages these have gone or are going through, etc.

The so-called antecedent information is likely to gain importance. It should not only keep informed and raise the awareness of public opinion on major political decisions, it should also be addressed to and spur the curiosity of all the people potentially interested in the several specific topics being examined, thereby trying to involve the categories concerned in the discussions. The ways in which this may be carried out are still not easy to define, but it seems that Parliament will have to face this question sooner or later.

As regards subsequent information, one gets the impression that there is a tendency towards a reassessment of publicity as a source of documentation, *i.e.* all those means through which people interested in parliamentary business may quickly, exhaustively and accurately retrieve data on the topics under discussion, the contents of the discussion and its future developments, the items on the agenda. As a result, the providers of information should be able to retrieve and select data in real time—may be

through EDP devices—in order to respond to incoming queries.

It is not Parliament that goes out to meet the world, it is the world that enters Parliament to learn about its activities. Parliamentary information services process requests for ever more specialised information on specific subjects; and this type of information has to be quick, thorough, accurate, and easy to understand.

In this field many important projects have been implemented, many are being studied or tested and many more may be planned in the future.

But there are two different types of documentation. On the one hand, we have what we might call static documentation, which is the object of the interest of those who need to know what has happened in Parliament. On the other hand, there is also a sort of guiding documentation, which is used in the search for sources of information: it provides selective data and helps users obtain the information they need.

The reports are the main instruments of static documentation. Their function is two fold: they are a means of information and documentation. While the former function is slowly losing ground, the latter is gaining importance: it is clear that verbatim reports are the main tools, while summary reports and the Journal of Committees are only a guide to the verbatim reports. We may, therefore, assume that requirements for documentation and immediate information are met by the summaries of verbatim reports which, thanks to the new and quicker processing techniques, are likely to become a sort of "immediate hansard".

In order to improve the documentation function of the reports, the Senate is storing all of them on CD-ROMs, which may be accessed from ordinary PCs. The search systems will be extremely user-friendly, and this will simplify the retrieval and reproduction of records.

Furthermore, the new printing procedures of reports, which have already been widely introduced, should facilitate—through an on-line connection with the Senate printing Office—the creation of a text data bank, which should help set up new on-line Archives of Parliamentary Records. All network users will be able

to access all parliamentary records—including reports of the Senate and its bodies and, if necessary, print them. This is a wide ranging project, and the President of the Senate has requested a software company, *Italsiel*, to prepare feasibility studies and executive projects by next summer.

Furthermore, all Senate sittings, and some Committee sittings, are now recorded on tape. These tapes have a great documentary value and it is foreseeable that sittings will also be video recorded in the future (as is the case with the German Parliament).

As regards the documentation available for users' research requirements, it must be remembered that the Senate has a long experience and a number of effective instruments for this purpose, notably the General Report of Senate Activities, published at the end of each Parliament—the editing of which is now almost completely automatic—the Parliamentary Information Office and the Archives, available to anybody who needs information on parliamentary business.

The introduction of modern information processing systems has greatly advantaged the dissemination of Parliamentary information through a network of data banks, to which are connected, in addition to the internal users, 170 external agencies. Three complex of archives composing the data bank called *Iter Legis* provide an example of the unique character of the Senate information services. They contain information enabling users to identify a Bill and follow its development through the various stages which lead to final approval. The system may be investigated in many different ways: for instances, searches may be conducted by explanation of vote, so as to reconstruct the standings of the various political groups in the legislative activity.

The first part of each record includes a table indicating the terms used to classify the Bill. The table of these terms was recently reorganised in conjunction with the Chamber of Deputies and a new glossary, called *Teseo*, was created. It is a structured list of terms, using the decimal international standard classification as a pattern for establishing connections.

Furthermore, there are two separate files for the non-legislative business of the Senate during the 10th Parliament' (1987-1992). One gives an account of the non-legislative business conducted by each Senator, Minister or Junior Minister: the other contains the announcements of documents to the Assembly and the requests for opinions received, transmitted or referred to other bodies.

The collection of proceedings (Atti) contains directions to identify rules other than laws published on the official journal (*Gazzetta ufficiale*) from 1940 to 5 August, 1989.

These data banks will soon be supplemented, as aforesaid, with a number of text banks—one for each type of parliamentary record—which will eventually form the General Archives of the Texts of Parliamentary Records.

In the near future, new technologies should make this wealth of information available to a wider public while rendering its language more user-friendly through new simplification and selection procedures.

We have seen that the whole field of relations between Parliament and the information world, and the issue of Parliamentary information, change according to time and circumstances, since they are linked to a number of different factors.

In the world of today, all those factors are rapidly evolving: hence the difficulty of finding a clearcut direction for our efforts. A wide range of choices lies before us and Parliament has to deal with all of them: it is a challenge we must face, if we want to bridge the gap between citizens and institutions.

INFORMATION AND COMMUNICATION IN THE CAMERA DEI DEPUTATI OF ITALY

Donato Marra

The relationship between Parliament and information can be approached from two different points of view, utilizing two different methodologies. For the experts on Parliamentary law, information is seen, or rather has been seen mainly within the broader category of publication, which is intrinsic to the workings of a sovereign elected body. For experts on communication, on the other hand, the proper context for the study of parliamentary information is as a part of the communications circuit in general, which is studied through a sociological and mass-media based analysis of the components.

hence, in our context as well, it is possible to employ the terms "information producers", "intermediaries" and "information users" for the parliamentarians (as communicators rather than legislators), the bureaucracy, in so far as it elaborates and transmits the message (leaving aside for a moment questions of autonomy), the media networks responsible for simplifying and amplifying the message and the recipients, who are not seen here as citizens, interested users and political entities with a right to

information, but rather as a *public* which selects the messages and receives them on the basis of priority criteria, which are largely still to be explored.

This type of approach has already yielded, and will not doubt yield further valuable information on the general framework within which the parliamentary administration operates. It should be underlined at the outset that this picture serves to define not only the potential, but also the external limits of parliamentary communication. It is not a question of looking for an alibi or eschewing responsibility as administrators, but rather of understanding what action it is possible to offer in response to parliamentary guidelines and stimulus, in the interests of overcoming the conditioning and the distortions which afflict all the world's democratic Parliaments. At the same time, the specific limitations of a structure such as the Administration of the *Camera dei Deputati* should not be overlooked; such limitations are linked to the fact that the intrinsic function of a parliamentary bureaucracy is that of service and the bureaucracy is, therefore, an *interpreter* rather than an *autonomous policy marker*. Furthermore, it does not have exclusive responsibility for all aspects of information, as this is shared with other bodies and is dependent on factors linked to the whole politico institutional system.

Communication experts, who see things from an external point of view, may be able to help us in elucidating the context and the limits of the communicative process. On the other hand, the aim of this paper is to outline the development of parliamentary information, from the *insider's point of view*, specifically that of the Administration (*i.e.*, the support structure) of the *Camera dei Deputati*. I shall do this by tracing in synthesis, the history of the expansion of information structures and illustrating new initiatives which, I hope, will soon be implemented. The guidance and stimulus provided by the office of the Presidency of the *Camera dei Deputati*, in particular the Committee for External Information and Communication, has been fundamental in this process.

Over the years, numerous contradictions have been encountered by our administration in the parliamentary information field, and I am aware that we share these problems with other

Parliaments. We have, for example, observed that a increased desire for outward-bound communication, has not led to a parallel growth in the actual capacity of media networks to transmit the messages, nor to an increase in the readiness of public reception. We have seen that the often-repeated and heart-felt commitment to public access as a corner-stone of parliamentary activity, has not been matched by an appropriate concrete provision of suitable instruments for bringing this about. It is almost as if the jurists and parliamentary experts, satisfied with having provided a theoretical framework for the problem, failed to give adequate attention to the fact that Parliament remained persistently opaque in the eyes of public opinion and in the eyes of the media itself. I am not certain if what we are faced with is in fact a paradox. I am inclined to think that the explanation is simpler and more straightforward and that it is yet another example of how difficult it is to translate theory into practice, to pass from words to deeds, especially where die-hard habits are concerned and where these are in conflict with the constant change which is characteristic of the information sector. From this point of view, I feel that there is a fundamental need for a *political* body to offer guidelines and stimulus.

At the beginning of the 70's. the Italian political parties and their sected representatives began to display a concern with the fact that they did not know enough and were not well-enough known. I would like to underline the fact that the debate which followed was not principally characterised by a concern with the questions of communication, but was focused, above all, on Parliament's increased need for information and the citizens need for communication *with* Parliament. These concerns are fundamental to numerous articles of the new Rules of Procedure which were approved in 1971 and characterise the most important innovations, especially the new means of acquiring information on the part of parliamentary Commissions (for example the hearings, inquiries and the series of new decentralized activities in the field of parliamentary auditing and policy-making).

In other words, during this first phase the dominant aspects of the overall need for communication between Parliament and citizens are those of *knowledge* (the need to know more in order to legislate better) and that of *participation* (the plurality of

social entities must correspond to the plurality of decision-makers). I believe that an important factor in this formulation has been played by the tendency, shared by the Opposition parties, to consider Parliament first and foremost as *the seat of decision-making* and, therefore, of potential participation in the political process, rather than principally as the place where responsibility is affirmed and hence where institutional mechanisms, both at the central and at the local level, are activated. Naturally, I do not undervalue the importance of Parliament having access to information about the external situation, as this is essential in order to be able to carry out the functions of vigilance and auditing, but comparable understanding of the nature of parliamentary activity on the part of the public is obviously also necessary.

While on the question of whether or not Parliament is a real decision-making place, I must say that I cannot bring myself to agree fully with the view of Parliament as a mere sounding-board for the parties, which has been put forward by some political scientists and communications experts. Nor should we indulge in the view that the parties are the only real decision-making centre. Of course, it should not be forgotten that Parliament is the institutional expression of the party system; but then, it is necessary to examine how much concrete autonomy Parliament as an *institution* is capable of expressing, and what specific contribution, it is able to make. In my opinion, the quality and quantity of the modification introduced by parliamentary Committees and the full Assembly to Government proposals in our country indicates that Parliament is definitely capable of making its own autonomous decisions.

An essentially centripetal concept of communication emerges, according to which Parliament is central because it functions as the *point of arrival* for information needs from the outside, while its function as a *place of departure* for information directed towards the public remains secondary, even in recent expert analysis. There have also been procedural modifications in relation to public access to parliamentary activity. It is not co-incidental that the Rules of Procedure of 1971 were the first to envisage the possibility of the live televising of parliamentary debates and the use of closed circuit television for Parliamentary Committee. But it must be admitted that there have been delays and problems in

implementing these norms, probably due to an inadequate legislative framework in this field which has not adequately faced the central theme of the multiplicity of modes of access to television media. This complexity has been exacerbated by the pluralism which has developed in the Italian electronic media sector.

On the other hand, the necessity to provide appropriate information to the parliamentary assemblies has brought about a profound transformation of the Administration of the Camera. In addition to the dominant function of certification and procedural assistance (not to mention specifically administrative tasks), a new, or rather a greatly expanded, function has come into play: documentation, in the sense of information collection *for the internal use* of the Committees and individual parliamentarians. While not ruling out the independent production and processing of documentation, it was decided to stress the role of the administration as "go-between" an intermediary of the flow of information, *albeit* not value-free and unselective, from the outside to the inside. The summarizing and filtering of documentation is preferred to mere acquisition and transmission.

This has led to large scale structural changes, to the creation of new services, the redefinition of the responsibilities of others, and to considerable investment in information technology and in a new library. Above all, it has led to an emphasis on documentation expertise in the training of parliamentary staff, who must be capable of responding to and interpreting information needs, managing different sources of information as well as selecting and evaluating them. This profound transformation of manpower and services is near completion, even if the documentation sector is constantly faced with new challenges which require new solutions. One need only think of the type of documentation supplied by the newly established Budget Service, and the new requirements connected with the institution of a new Parliamentary office responsible for monitoring the implementation of laws, currently under examination by the Rules of Procedure Committee.

It has taken nearly ten years to find a solution to this first half of the problem of communication between citizens and Parliament.

It is, however, the second phase which directly interests us here, but I felt it necessary to illustrate the full range of the Administration's initiatives, all of which affect the working of our Parliament. This second phase is conceptually and temporally bound up with the first, as it too traces its origins to the mid 70's, but has been characterised by less strategic awareness. Intervention has been fragmentary and has not led to a global strategy resulting in a sufficiently organic solution so as to complete the centrifugal outward-bound information circuit: citizens-parliamentarian-citizens.

As I have already suggested, the explanation for this lack of an overall vision is to be found in the comparative unreadiness, both cultural and politico-parliamentary, to tackle the question of information emanating from Parliament in global terms. Historically, the concepts of publication and public access have been tied to the legislative act itself. Regulations, procedures and even the training of the parliamentary officials have been connected with the concept of making public the proceedings as *the* formal component of parliamentary activity, with the sole objective of guaranteeing that the information contained was complete and accurate. There is no doubt that this also is an essential aspect to parliamentary information, but it has wrongly been considered the only possible or necessary form of communication, and hence incompatible with other forms, which were reserved for the use of the appropriate institutional bodies. This is undoubtedly due to an excess of cautionary zeal which characterizes both bureaucracies and the political class as a whole. In this respect, Italian parliamentary culture is not very different from that of other parliamentary democracies. A few simple and well-established structures are sufficient for the implementation of this concept of public access (shorthand transcriptions and resumes, a public gallery and a press gallery). These are expressions of two principal characteristics (essential but not exhaustive) of the traditional concept: the public nature of any parliamentary action, that is to say, its being potentially open to the public (regrettable often only potentially) and its being *true*.

The expansion of Parliament's institutional role (with a resultant heightening of its visibility) on the one hand, and, on the other, the increased diffusion of the electronic media (in particular

the spontaneous growth of private networks) are the two factors which have made it necessary to widen the limited concept of publicization in the direction both of *public access* and *public information*. Because of this, I feel that the gradual development of a series of experiences, initiatives and products has already brought about concrete and radical changes to the framework of relationships between Parliament, mass-media and citizens.

There are a number of main stages discernible in this development. During the Seventh Legislature (1976-79) a press liaison section was created on an experimental basis within the General Affairs and Planning office. Subsequently, a Press and Publications Office was instituted during the Eighth Parliament (1979-83), uniting under its auspices the various functions of information diffusion. Although in those years the Press Office was still at an embryonic stage, it led to the establishment of procedures which would regulate, in the following years, the presence of television cameras and photographers in Parliament, public and press access, the relationship between journalists and parliamentarians, not to mention press conferences, the various forms of press releases and so on. An significant way-stage in this process was an important conference held in 1982 which was organised by the parliamentary Press Association and the Presidency of the *Camera dei Deputati*, which led to a similar initiative for the Senate.

In 1987, the creation of a Communication and Information Committee within the office of the Presidency of the Camera laid the foundations of a comprehensive and permanent response to the whole problem. On the operative side, this took the form of a new Parliamentary Information Service which was instituted the following year. The press and parliamentary information office and the Proceedings and Publications Office form part of this Service.

In the meantime, the information sector has been in constant expansion, and this affects both the traditional means of printed or microfilm information as well as electronic and computerized means such as data bases which are made available outside parliamentary premises. This also includes the development of closed circuit television coverage of the hearings of permanent Committees, not only in the case officially foreseen by Parliamen-

tary Rules of Procedure, namely legislative and drafting Committees, but also in the case of general political Committees, hearing, inquiries and Government statements. On the other hand, in my opinion, it is appropriate that this direct coverage does not take place in the cases of referral and consultative Committees, which have an exclusively preparatory function and are, by nature, informal. Two other innovations are: the use of *Televideo* (broadcast by the State television network) and our internal television, *Sistema Informazioni Camera*.

Lastly, in 1991 the Communication and Information Commission of the Office of the Presidency of the Camera held an important conference at which leading communications experts, jurists, parliamentarians and journalists were present. This provided an opportunity for taking stock of what had been done and for outlining future projects. The proceedings of the conference and the extensive *Report on Parliamentary Information in Europe*, which provided the starting point for discussion, constitute, in themselves, an important source of documentation on the "state of the art".

Despite the work which has been done and a notable commitment which has been displayed, it has to be admitted that the results are not fully satisfactory from an overall point of view, nor do they guarantee an adequate level of information on parliamentary activity, *albeit* simplified, for the majority of citizens so that this too forms a part of the circuit of democratic communications. The fact is that this has not taken place, or it has been only achieved in part or even distorted. This is partially our responsibility, but it may also depend on factors which lie outside our control.

The limitations which condition the "visibility" of Parliament in the mass media system are *external* limitations arising from the complex dynamics of communication, and this is true whether they be limitations of the Parliament itself or of the media. Parliament, in its role as communicator, is merely one among many political and social institutions demanding the attention of the world of the mass media, and its limitations in communicating are not subject to large-scale modification, as, in the final analysis, they are dependant on the objective behavioural charac-

teristics and reactions of each of the political "actors" under discussion. No one here among us can have failed to have noticed the way in which the procedural complexity of parliamentary action is an indelible characteristic of its collegiality and its representative pluralism and a guarantee of the democratic formation of the public will through discussion and effective participation. It is, on the other hand, one of the factors which makes it difficult to perceive the significance and the meaning of parliamentary events. However, these external limitations should not prevent the Administration of the Camera from continuing to seek to make improvements, although they should be taken into account in the assessment of achievements.

Without doubt there is much that remains to be done and much that could be done better. In the first place, the concept of *making public*, which is today both more complex and more dynamic, in its dual role as information from the public and to the public, requires the implementation of appropriate procedures and structures.

In order to reach these communication objectives there is need for transparency on the cultural level and on the procedural level. It is the duty of the administration, working in harmony with political guidelines, to train its officers along these lines, through further qualification and investment in material resources, analogous to that which has taken place in the documentation sector. At the same time I am convinced that this enhanced activity of communication and information, as with the more traditional forms, must be planned at all levels so as to avoid an excess of intermediary phases, which are bound to cause distortion or may, at best, reduce the efficiency and immediacy of the message.

One of our responsibilities is the preparation of concise and accurate information products as aids to the understanding of the quantitative and qualitative complexity of parliamentary events. Such products are not only aimed at journalists and at the specialist public (special interest groups) but also at normal citizens. We have made available a number of products which effectively provide general information for non-specific public consumption, but much more could be done to bring citizens into closer contact

with parliamentary institutions. We are aware of, and stimulated by, the numerous initiative undertaken by other Parliaments in this respect, in particular the French Parliament, the British Parliament and, above all, the European Parliament. In passing, it is worth considering that the reason why the European Parliament is in the forefront in this field may be linked to its distinctive nature and its consequent need to make itself known. National Parliaments, on the other hand, can count on strongly rooted cultural traditions and, therefore, may have underestimated the importance of these problems.

We are on the threshold of major innovations in the area of public access, where the voice of the radio and the eye of the television constitute an extension of the physical presence of the public. The American experience with C-Span (Cable-Satellite Public Administration Network) has demonstrated the existence of an audience, *albeit* a minority, which is keen to follow undiluted parliamentary debate with minimal editorial interference.

In Italy, we are in the process of providing radio coverage of parliamentary sittings, utilizing cable radio in the short-term, while awaiting the provision of the special radio channels foreseen by the recent reform of the radio-television system. Negotiations with the Italian state broadcaster, RAI, are in their final stages. We shall also scrutinize the possibility of extending this service to the hearings of Parliamentary Committees. The establishment of a less-sporadic model for television broadcasting requires careful definition of the different access modes of the television media, and establishment of criteria for new types of parliamentary television programmes. This will obviously involve balancing the requirements of this particular medium and the need to maintain the integrity of the message. Given the delicacy of the questions involved, this task will be principally the responsibility of the Office of the Presidency, but the Administration of the Camera will contribute by advancing proposals.

In addition to the above-mentioned concepts of *public access* and information to the public there is that of communication, not in the mass-media sense of the word but rather in the sense it is used in public-relations. Some degree of ambiguity in the use of the term communication is probably inevitable, al-

though the distinction between communication and information is crucial for a parliamentary institution and cannot certainly be ignored by the Administration of the Camera Dei Deputati. If we define information as the Transmission of a highly integral and objective message, and communication as the transmission of a synthesis which represents to some extent an evaluation of the original message, then it is clear that both "information" and "communication" are necessary to any organization, *public access and information to the public* there is that of *communication*, not in the mass-media sense of the word but rather in the sense it is used in public-relations. Some degree of ambiguity in the use of the term *communication* is probably inevitable, although the distinction between communication and information is crucial for a parliamentary institution and cannot certainly be ignored by the Administration of the Camera dei Deputati. If we define *information* as the transmission of a highly integral and objective message, and *communication* as the transmission of a synthesis which represents to some extent an evaluation of the original message, then it is clear that both "information" and "communication" are necessary to any organization, public or private, which seeks links with an external public.

It must not be forgotten that in the case of complex and pluralistic bodies such as Parliament, each of these two activities requires different types of action, and, above all, they will need to be employed differently. In my opinion, this is the most important point: to distinguish between *information* provided at the official level by an administrative agency using the means made available on the one hand, and on the other, *communication* which pertains to a political body or its governing organ (in our case the Office of the Presidency). Given that the administration should co-operate in both forms of communication, I do not consider that what is called for is a new professional role, but rather the development and fostering of commitment. It is worth remembering that the figure of a parliamentary official has its origins in that of the *grufier*, whose primary function is the provision of reports and summaries.

The problem of reconciling this role of evaluation and synthesis with the impartial role of the administration, emerged in the initial stages of the restructuring and the expansion of the

documentation sector, but subsequent experience has proved that the concern which was expressed over the possibility of distorting inward-bound documentation was unfounded. This problem is still open to discussion with regard to the new information sector, which has only been operative for a few years, and has still to be verified in real terms. We must not forget that in this case the product is destined for *external* consumption, whereas in the case of documentation, Parliament and the parliamentarians are both the recipients and the users, at least in the short terms. This is a significant and important difference.

There are undoubtedly *internal* limitations to what a parliamentary administration can do and what is appropriate for it to do in the communications field, given that its vocation is to serve *all* members of Parliament from both the governing parties and the Opposition. It is important to define these limits in order to establish an appropriate field within which the administration's activity can develop. It is essential to identify these constraints, whether they be *external* and specific to the communication system, or *internal* and specific to Parliament itself, in order to decide which products and which activities require development, and the appropriate means of implementation. Clarity in stating all the issues involved is the best way of countering any possible reluctance or opposition, which, when faced with univocal and meaningful criteria, will find itself with no reason to exist.

After having affirmed these needs and these concerns, I would like to conclude by reaffirming the awareness on the part of the whole Administration of the *Camera dei Deputati* of the need to confront the new problems which the communications epoch has posed for us. Those of us who are called to provide proper and efficient parliamentary services cannot afford to remain indifferent to these developments. We should all pause to reflect that an appropriate perception on the part of citizens of what goes on in Parliament, is essential to the functioning of the circuit of democratic responsibility on a wider basis. The fostering of democratic communication is one of the main tasks of any Parliament, as a duty to itself, to the other institutions (the government, in particular) and to the political body as a whole.

**THE EFFECT OF THE ELECTORAL SYSTEM ON
THE POLITICAL AND LEGISLATIVE
PROCEEDINGS OF THE PARLIAMENT :
A CASE STUDY OF JORDAN**

Saleh Al-Zu'bi

Historical Background

The Political System in Jordan : The system of Government in Jordan adopts indirect (parliamentary) democracy as article (1) of the Constitution provides that the system of Government is a parliamentary constitutional monarchy. The system also adopts the modern evolution of parliamentary democracy as it provides for social rights and freedoms in addition to political freedoms (articles 5 to 23) at the top to which come the right to free compulsory education ; right of work for all ; determination of wages and work hours ; vacations ; social insurances in the cases of dismissal ; sickness, disability and work emergencies.

All the characteristics of the parliamentary system are evident in the Jordanian political system ; namely ;

I : Dualism of the Executive Authority. This Authority consists of :

(1) The King : He is the supreme head of the Executive Authority; he is not responsible before any party but he does not actually exercise the executive authority ; however, he practices it through the Cabinet which is responsible before the Parliament. The King does not exercise his constitutional competences alone, as along with him, the resolutions of the Executive Authority should be co-signed by each of the Prime Minister and the relevant Minister.

(2) The Cabinet : The Council of Ministers is regarded as an independent unit that jointly meets. It exercises the actual executive authority ; establishes the general policy of the country ; administers the affairs of the State and co-ordinates amongst its various bodies. The Cabinet is responsible before the elected House of Representatives that possess to call it to account and to remove it. However, the Government, in turn, has the right to dissolve the House of Representatives and to refer to the voters.

II : Equality between the Executive Authority and the Legislative Authority : The Executive Authority occupies a standing equal to the Legislative Authority. It is not annexed to it, but it derives its authority from the Constitution. It administers the affairs of the State to achieve the requirements of both the country and people during the exercise of its competence as long as it enjoys the confidence of the House of Representatives. This equality stems from the position of the King as Head of the Executive Authority Independent from the House of Representatives, and whose influence balances the influence of that House. The Independence of the King is enhanced by his being politically not responsible to the House of Representatives as that House does not possess the power to dismiss him or to depose him as long as he enjoys full civil competence.

III : Cooperation and Exchanged Control between the two Authorities : The separation between the Executive and Legislative Authorities is neither complete nor absolute. The relation between them is characterized by co-operation, balance and exchanged control.

1. Aspects of Co-operation

- (i) The admissibility of combining the ministerial position and the membership of the House of Parliament.
- (ii) The right of the Ministers to attend the sessions of the House of Parliament and its various Committees and to participate in debates.
- (iii) The right of the Cabinet to propose bills to the House of Parliament inclusive of the Budget Law, in addition to the right of the members of the House of Parliament to propose bills.
- (iv) The right of the House of Parliament to express opinion in any issue requested by the Executive Authority. The reply to the Speech from the Throne is considered as a chance to express the House's opinion in the various executive matters.
- (v) The right of the members of the House to express their desires as regards certain matters (motions) in spite of the fact that the Cabinet possesses not to implement such motions; however, their declaration is regarded as an ventilation of public opinion in order to exercise its pressure to implement those aspects which are reasonable:

2. Aspects of Exchanged Control

- (i) The right of the House of Parliament to address questions and interpellations to the Cabinet and Ministers; however, it is noticeable that the House does not possess the right to parliamentary investigation in its full concept.
- (ii) The right of the House of Representatives to cast the vote of confidence in the Government; should the House withhold confidence, the Government should resign.
- (iii) The right of the King to object to bills approved by the House.
- (iv) The right of the Executive Authority to call the House of Parliament to convene, to adjourn its sessions and to

prorogue them within the limits specified by the Constitution.

- (v) The right of the Executive Authority to dissolve the House of Representatives collectively before the end of its term compared to the right of the House of Representatives to the political accounting of the Cabinet and to remove it which results in balance between the two Authorities. This right is not regarded as an infringement of the democratic principle ; but it deep roots the sovereignty of the people as it necessitates the referring to voters any dispute between the two Authorities through the election of a new House of Representatives that may not be dissolved for the same reason.

the ruling bodies in Jordan are represented in the Executive Authority, Legislative Authority and Judicial Authority.

The Executive Authority

The Executive Authority consists of the King and the Council of Ministers as article (26) of the Constitution provides that the Executive Authority is vested in the King who shall exercise it through Ministers as per the provisions of the Constitution.

The King enjoys important competences in internal, external, political, legislative and judicial affairs. He is the Supreme Commander of the Armed Forces, issues orders for the holding of elections to the House of Representatives, convenes the House, inaugurates it and prorogues it. He also dissolves the House of Representatives, appoints the President and members of the Senate and accepts their resignations. He concludes and ratifies peace treaties and agreements, approves the recognition of States, appoints ambassadors at the recommendation of the Council of Ministers. Besides, he ratifies the bills adopted by the House of Parliament and also the provisional bills approved by the Council of Ministers and issues them, endorses death sentences after seeing the opinion of the Council of Ministers. Furthermore, he has the right to special pardon and to remit any sentence.

Council of Ministers

The Council of Ministers consists of the Prime Minister and the Ministers. A Minister may be entrusted with more than the one Ministry. The Prime Minister and the Ministers may be among the members of the House of Parliament or non-parliamentary persons. A Minister who is not a member of the House of Parliament is not entitled to vote in either Chamber as voting in each Chamber is restricted to the Minister who is member thereof.

The Council of Ministers controls all the internal and external affairs of the State. It constitutionally undertakes the actual executive authority, establishes the general policy of the country with the approval of the Kings, and coordinates the functions of the various bodies of the State. The Council of Ministers is a self-existent unit that meets collectively and jointly and has its constitutional organization. It is responsible to the elected House of Representatives and has to obtain the vote of confidence of the House within one month of its formation if the House of Parliament is in session. The responsibility of the Council of Ministers before the House of Representatives is individual as well as collective. *Individual responsibility* relates to each Minister individually as a result of a mistake or serious default in the discharge of the functions of his Ministry while *Collective responsibility* involves the whole Cabinet and is based on the extent of the convenience of its public policy to the interests of the country in the opinion of the House of Representatives, or because of the accounting of the Prime Minister as he symbolizes the whole Cabinet.

The Council of Ministers has the right to propose bills and to refer them to the House of Parliament, including the General Budget Bill. It also has the right, with the approval of the King, to issue urgent bills in the form of provisional bills which have the power of ordinary bills when the House of Representatives is not in session or is dissolved. Besides, it has the right to issue executive regulations relevant to the applicable laws and independent regulations based on the Constitution which relate to the administrative divisions and the formations of Government departments, the method of their administration and the affairs of their servants. It also declares the state of emergency in extraordinary circumstances of war and calamities.

The Legislative Authority

The Legislative Authority is vested in the House of Parliament and the King. The legislative role of the King is restricted to the ratification of the bills passed by the House of Parliament. The House of Parliament is bicameral consisting of the Senate and the House of Representatives.

The Senate is formed by appointment by the King. However, it is a condition that the Senators should be from amongst the dignitaries of the country who enjoy the confidence of the people in the light of their services to the nation and the country, from amongst the Prime Ministers and Minister (present and former); Ambassadors, Ministers Plenipotentiary ; Speakers of the House of Representatives ; Presidents of the Court of Cassation and the Civil and Sharia Courts of Appeal ; retired military officers of Lieutenant-General and above ; and former members of Parliament who were elected at least twice. It is a condition for a member of the Senate to have complete 40 years of age. He is appointed for a term of four years and may be re-appointed. The function of the Senate is closely related to that of the House of Representatives, therefore, it convenes simultaneously with the House of Representatives and its sessions are suspended when the House of Representatives is dissolved. The maximum number of the Senators is one-half of that of the House of Representatives.

The House of Representatives is formed by election. The Elections Law specifies the number of representatives. The presently applicable Elections Law 22 for 1986 and the amendments thereof specify the number of 80 representatives. The House at the beginning of every ordinary session elects a Speaker thereof from amongst its members for a term of one year. However, may be re-elected. The House exercises a judicial competence in respect of following two cases :

- (i) The consideration of petitions presented to determine the validity of the election of its members as it possesses to invalidate the membership by the two-thirds majority of all of its members;

- (ii) To address charges to the ministers to try them before the Supreme Council which has, such competence.

The Executive Authority has the right to dissolve the House of Representatives; however, it does not possess, in ordinary circumstances—to suspend parliamentary life. Therefore, the Government should hold elections for a new House to convene within four months from the date of the dissolution of the existing House; otherwise that House shall resume its full constitutional responsibility and shall remain in office until the election of a new House.

The Judicial Authority

The Judicial Authority is vested in the court in their various types and degrees, and they pass judgements in the name of the King. Judges are appointed and dismissed by a Royal Decree. Thus we see that the King is not part of the Judicial Authority ; however, he is a partner in the Executive and Legislative Authority in the discharge of their functions.

The Judicial Authority enjoys full independence from the Executive and Legislative Authorities. Judges are independent and they are subject to no authority in their judicial functions except that of the law. Courts are open to all and are immune from interference in their affairs.

The Electrical System

The Election Law gives birth to the Legislative Authority, *i.e.* The House of Representatives. The legal system in Jordan is known to be constitutional, democratic and Parliamentary. Based on that, and in order for the system to avail the conditions for the establishment of the democratic State, it must be based on the following principles.

- (i) The principle of “the people are the Source of Powers”: Elections are just a vehicle to achieve this principle.
- (ii) The principle of “the separation between Authorities”; this means the distribution of power to prevent the absolutism thereof and to prevent the domination by any of the three authorities of the other two.

- (iii) The principle of "the sovereignty of law"; which necessitates the obligation of rulers and the ruled on the same footing with the rule of law.

All these principles are established by the Constitution of Jordan.

The essence of democracy in the modern State is based on the fact that the State is the State of all people. For the sake of achieving this, humanity found vehicles for realizing democracy through the right of popular referendum and the drafting of Constitutions as peoples bestowed on Constitutions, the characteristic of eminence and sacredness in view of the principles and provisions they contain. People imposed the principles of the sovereignty of law, the separation between authorities, parliamentary representation, the right of secret ballot, general suffrage, the right of thinking and expression, the right of meeting and publication and the right of form societies and political parties, for the sake of toppling absolutism and to enrich democracy.

The requirements of democracy in a modern Senate necessitate that a State be the State of all the people. This imposes the recognition of the right of Opposition. The establishment of this right means the rule of equality among all the people and the preservation of the unity of society which is necessary in the best interests of people and society, not to mention the giving of preponderance to majority opinion. The establishment of the principle of the right of the majority to rule, and the right of the minority to Opposition enables the State to be democratic, and not to be a State of an individual or a group or a class or a minority.

The presently applicable Elections Law 22 for 1986 and its amendments adopt the method of election through lists and relative majority. The Kingdom is divided into constituencies and the number of members ranges from 2 to 9. Thus, a voter may select a list of candidates and not just one candidate. A successful candidate is the one who obtains the largest number of votes in one round regardless of the percentage of the voters.

The electoral system in Jordan adopts the open list. The Kingdom is divided into a number of constituencies which are

relatively few and unequal in the number of population. Each of said constituencies has more than one member of Parliament. A voter can select from the lists of candidates, in a given constituency, a number of candidates, the maximum of which is the number of parliamentary seats allocated for said constituency. He is not obliged by a static list either to accept it all or to reject it all.

The Jordanian electoral system adopts relative majority as a candidate is considered successful, if he obtains the largest number of votes—the relative votes *i.e.* more than the second—and not the condition of absolute majority, *i.e.*, the majority of those who have the right to vote in that region. Thus the election process in Jordan is of one round.

The electoral system also adopts the principle of the representation of religious, ethnic and social minorities lest public suffrage should not to the representation of such minorities in parliamentary life. There are seats allocated for Christians, Circassians, and Bedouins.

The idea of the formation of political parties and blocs in the majority of the Middle east countries,—including Jordan, dates back to the early years of this century. Parties came to life with the birth of the State and the evolution of the systems of Government in the countries of the region.

On the Jordanian scene as a result of Jordan's circumstances in particular and the conditions that prevailed in the region in general, there has been a wide spectrum of parties ranging from the extreme right to the extreme left since the establishment of the State. In spite of the fact that the majority of parties and blocs have not been politically recognized by the ruling authority, such parties were and still are existent on the scene and exercise their activities in one way or another in public life.

The political movement has recently been activated particularly after the passing of the Political Parties Law last year as the number of political parties and blocs that expressed their desire to exercise political party work reached approximately 24.

In view of the organizational and financial difficulties facing these parties, particularly after the passing of the Political

Parties Law and the conditions contained therein for the formation of parties, the party map in Jordan may witness the absence of many of these movements or organizations. Most probably they will be amalgamated with each other in the form of fronts with ideological harmonization. Thus, the party map in Jordan may include four political orientations, namely :

- (i) The Religious Orientation : Totalitarianism.
- (ii) The Pan-Nationalist Orientation : Pan-Arab nationalist parties.
- (iii) The Nationalist Orientation : Traditional Nationalist parties.
- (iv) The Universal Orientation : Communist and leftist parties.

The Election Law and Its Effect on the House Debates

The Constitution provides for a set of facts and general rules that organize the system of Government in the Hashemite Kingdom of Jordan. The Executive Authority enhanced the rules of the Constitution through the drafting of a general national charter, the objective of which is to strengthen the principles of public national action; to define its methods; and to establish general rules for the exercise of political plurality.

Of the foremost of such facts is that Jordanians men and women are equal before the law with no discrimination between them in rights and duties even if they differ in race, language or religion.

Parliamentary elections in Jordan were held in 1989 on the basis of the provisional Elections Law for 1986 under the shadow of circumstances when parties were legally banned from open political activity. Now democracy has become the course of the State and the Party Law a tangible fact. It has become logical to question the extent of harmonization between the conditions of political plurality and the present elections law, and whether the said law does reflect the political conditions now prevailing in the country.

Notwithstanding that the resumption of parliamentary life and the passing of the elections law, the law still needs review to highlight the inter-relation between the democratic course of the State and the principle of party plurality and the overall objectives of society. This, in its turn, necessitates that the elections law be capable of facilitating the merger and amalgamation of parties into the political activity of the State and the transformation of said parties into national institutions.

Emanating from this, the elections law should firstly secure the largest extent of effectiveness in the representation of all social segments. This necessarily entails not a mere relative representation but to broaden the electoral constituency to move into an environment which is healthier and more representative of public national interest than the narrow tribal and localized interests.

Secondly, there is a need to change the size of electoral constituency to alleviate the violence of conflicts so that competition will be on the basis of preference of ideas and programs and not between individuals only.

This will also give the party institution a more effective role in political life, which in its turn will be positively reflected on the electoral behaviour of the citizen and will ultimately influence the shape and essence of the party and parliamentary map and the performance thereof.

In summary, the presently applicable elections law or that law to be drafted by the Government will have a great impact on the results of the elections and eventually on the political and ideological structure of the House of Representatives. The elections law in Jordan cannot ignore in one step the prevailing political interests and factors. Therefore, it may be safely and generally said that the Jordanian Parliament, through the applicable elections law represent the demographic structure and the social trends and interests in one way or the other. They also reflect the image of the Jordanian society to a large extent and perhaps so, for numerous years to come.

GROWTH OF POLITICAL PARTIES IN KENYA

Japhet K. Masya

Political Parties—General

The evolution of political parties through generations, the world over, is as varied as their objectives. There seems little chance that there would emerge a standard party, standard objectives, party systems or even a standard political culture. Thus, whereas on the European and American continents, most political parties tended to originate from within Parliaments or Legislatures, in the late nineteenth and twentieth centuries, the struggles against colonialism and imperialism in the Third World, did provide fertile and conducive ground for the emergence of mass national independence movements. These movements were the precursor to the parties formed immediately prior to resumption of independence. The parties at independence were imbued with the spirit for the struggle for freedom and liberation, intent on securing independence and national self-determination.

Origins of Parties

The eventual development leading to the present day political parties in Kenya can be rightly traced to the activities and demands made by the European settlers and Indian immigrants for

participation in the colonial government, at the beginning of this century. The presence of the European became inevitable with the progressive set-up of an administrative structure beginning in 1890's and the inevitable need to open up the interior for agricultural and commercial purposes. These activities attracted many Europeans from Europe and South Africa. At the same time, there was need for skilled and semi-skilled labour to help lay the prime communication network, namely, the construction of the Uganda Railway traversing Kenya into Uganda leading to the arrival of Indians.

The evolution of political parties in Kenya would be deemed to have started in 1902, with the formation of the Colonists Association by the European settlers, which in 1910 changed its name to a Convention of Associations, and began to seek the enjoyment of the "inalienable rights of every British Citizen" namely : "no taxation without representation".

To achieve this they petitioned for establishment of a Legislature, which came in 1907. The Colonists Association was followed by the East African Indian National Congress (E.A.I.N.C.) of 1910. The E.A.I.N.C. sought representation by elected members on a common voters' roll and an unlimited immigration of Indians to Kenya. By 1920, both the Convention of Associations and the East African Indian National Congress had gained representation in the Legislative Council but on separate electoral rolls.

It is worthy to note that throughout their existence down to the dawn of independence, these two parties never sought to govern. They were satisfied with the symbiotic relationship with the government of the day as this enabled them to influence its policies and programmes. These two parties occupied the central spot of un-official participation in the colonial Legislative Council till the 1950's when they were relegated to the periphery of the political scene then, inevitably, taken up by the indigenous African parties.

Indigenous African Parties

The indigenous African parties were born in 1920's. The African parties were a reaction against foreign encroachment on their erstwhile freedom and land. This decade saw the birth of the

Kikuyu Association with its youth wing of Young Kikuyu Associations; the Kikuyu Central Association, Young Kavirondo Association, the East African Association etc. Most of these were within Nairobi, though only the East African Association was trans-ethnic. More African "parties" were to be formed starting 1924, with implementation of Local Native Council Ordinance - L.N.C. The implicit objective of this ordinance was to confine African political activities and parties to the ethnically carved out reserves or districts.

The objectives of the L.N.C. seemed to have succeeded as it was not until 1944, that an attempt to form a trans-ethnic organization crystalized in the Kenya African Union. The restrictions of the 1924 ordinance haunted K.A.U. so much that at times it operated as Kenya African Study Union, under the late Mr. James Gichuru. The Kenya African Union was ostensibly formed to guide and ensure that, the participation of the first and only African nominated to the Legislative Council Mr. Eliud W. Mathu, was for and in the interest of the Africans. K.A.U.'s reverting to a study group concerned with encouraging the spread of education to Africans, slowed and delayed its development into a fully-fledged political party.

A worthy corollary to draw between the European, Indian and African political parties, is that, none of them felt it had either the legitimacy or capacity to attempt to govern Kenya. They seemed content with the preservation of parochial interests and their always inconsequential presence in the Legislative Council. The tremendous development and transformation of political parties that imbued tangible confidence in the leadership K.A.U. for it to start demanding independence became evident after resumption of leadership of the African political activities and parties by Mzee Jomo Kenyatta in June, 1947. K.A.U.'s close working relations with the often militant leaders of the East African Trade Union Congress, inspired and generated sufficient confidence for them to demand immediate independence by 1950.

Mau Mau Liberation War

The continued militancy and vocal advocacy for immediate majority rule by Africans developed K.A.U.'s activity into a liberation war. The Mau Mau led the colonial government to declare a

state of emergency and the incarceration of leading K.A.U. leaders on 20 October, 1952. The continued resistance to the crack-down on African political activities in the midst of the harsh state of emergency, incensed the colonial government so much that, K.A.U. was proscribed on 8, June 1953; and in effect a ban slumped on all political activities by Africans. The void thus created was filled by the increasingly politically charged activities of the Kenya Federation of Registered Trade Union - (KERTU), which under the late Mr. Thomas J. Mboya as General Secretary was, in October, 1953, transformed into the Kenya Federation of Labour - (KFL).

Multi-racial Experiments

The ban slammed on the political activities of Africans was lifted in June, 1955; though their activities were, however, like in 1924, restricted to the districts. Prior to the revocation of the ban, two activities had been carried out, in an apparent attempt to derail the evidently growing determination by Africans to push for full independence. The first was a plan commonly called the Lyttleton constitution, meant to persuade and encourage Africans to accede to work in a multi-racial power-sharing arrangement. The second was the Coutts Commission report, that investigated possibilities of extending the franchise to Africans. The Coutts report recommended a qualified franchise, whereby only a few Africans could be enfranchised with some having as many as four votes. Both measures were vehemently rejected by the Africans led by the Kenya Federation of Labour.

District Parties

Nevertheless, upon the lifting of the ban on African political activities several African elite members of the proscribed K.A.U. formed district associations—"parties". Starting in Nairobi, the late C.M.G. Argwings-Kodhek, succeeded to register the Nairobi District African Congress (NDAC), in April, 1956. In February, 1957, the late T.J. Mboya succeeded to register the Nairobi People's Convention Party. Though a splinter of the NDAC, the Nairobi Peoples Convention Party, soon established itself as the dominant African party in Nairobi. The other district associations formed at this time, were, the Mombasa African Democratic Union; the African District Association (Central Nyanza); the South Nyanza District African Political Association; the Kisi Highlands Abagusi As-

sociation; the Taita African Democratic Union, the Nakuru African Progressive Party. etc. The formation of these Associations was in time for the first election for eight African Members to the Legislative Council in March, 1957 and in the subsequent elections of 1958, 1959 and 1960, in which their support for the various candidates was decisive. In all electoral districts, successful candidates had the backing of one or more of these Associations.

The number of the Elected African Members in the Legislature had increased to fourteen by 1959. These now formed a group "party" of the Elected African Members of the Legislative Council (E.A.M.L.C.). The E.A.M.L.C. felt that since they were the duly elected representatives of the various electoral districts, they had the mandate and right to claim the legitimacy to represent the views of majority Kenyans in demanding success to and the control of the reins of government. In May, 1958, a Convention of the African Associations was formed to help co-ordinate their activities and map out strategies for the future. The Convention was denied registration. Suffice to say, that, the continued united demands by the E.A.M.L.C. did in a short time contribute in no small measure to tangible steps by government to commence independence processes through the convening of all "parties" constitutional conferences.

In spite of some tangible success to their credit, cracks of mistrust and eventual disunity began to show in the ranks of the E.A.M.L.C. The year 1959 was to witness a sharp split in this "party". In July, 1959, eight of the E.A.M.L.C., led by Masinde Muliro, Ronald Ngala, Taaita Toweet and Daniel T. arap Moi, founded the Kenya National Party (KNP) to safeguard the interests of the minority and the small ethnic groups in Kenya. This was followed in August, 1959, by the formation of the Kenya Independence Movement by the other Members led by Jaramogi Oginga Odinga Julius G. Kiano and T.J. Mboya. The two parties only came together following the firm stand by the British government that as the ban on national parties persisted, they could only be allowed to participate in the first Lancaster House constitutional conference set for early 1960 as E.A.M.L.C.

Towards Independence

ON return from the first Lancaster House constitutional

conference, the split among the Elected African Members had not been healed. At this same time the ban on national parties had been lifted. On 27 March, 1960, most of the Elected African members and other leading political personalities and the elite, met at Kiambu in a desperate attempt to salvage the fledgling E.A.M.L.C. and devise concerted strategies to launch one national party to steer Kenya to imminent independence. Despite the notable absence of the eight Members who had formed the K.N.P., the gathering resolved to launch the Kenya African National Union - K.A.N.U. with an interim executive committee comprising some of those in K.N.P., under the late James S. Gichuru.

Nonetheless, the KNP members did not remain together on return from London. It was split into four regional parties, viz. Kenya Africa Peoples Party led by Masinde Muliro; Kalenjin Political Alliance led by Daniel T. arap Moi; Masai United Front led by Justus ole Tipis; and Coast African Peoples Union led by Ronald G. Ngala. Finally the four regional parties along with the Somali National Association met at Ngong town on 25 June, 1960, and founded Kenya African Democratic Union - K.A.D.U., under Ronald G. Ngala. The dissensions preceding formation of KADU were to be experienced by KANU in 1962, when the veteran nationalist politician Paul J. Ngei split off to found the African Peoples Party - A.P.P.

In the General elections held immediately prior to independence in May, 1963, K.A.N.U. garnered the highest number of seats followed by K.A.D.U. and A.P.P. K.A.N.U., now under Mzee Jomo Kenyatta, went on to form the first independent government of Kenya. K.A.D.U. and A.P.P. were consigned to the opposition under Ronald G. Ngala. The settlers' party - Electors Union and the East African Indian National Congress-fizzled out of the political scene.

Multi-Party State

Against the foregoing background, it seems evident that the three parties in the first Parliament were descendants, propagators and a perpetuation of the ideals, aims and objectives of the various precursor African Parties. These parties continued to advocate and work for the total liberation of the Kenya peoples and restoration of their cultural heritage. However, towards the end of

1964, upon conclusion of some intensive bargain, the Opposition parties agreed to a voluntary dissolution and merger with K.A.N.U. under Mzee Jomo Kenyatta, who also became the first President upon the promulgation of a Republic on 12 December, 1964.

Towards one Party State

The *de facto* one party status was in place till March, 1966. Since its formation, KANU had held only one Annual Delegates Conference, its highest decision making organ in 1962. The second conference was convened in March, 1966 at Limuru, at which the apparent simmering ideological differences between some of its top officials surfaced. The consequences of this was the immediate resignation of portfolio, all party post and KANU membership by the party and the Republic's Vice President, Jaramogi Oginga Odinga. The Vice-President was followed by a sizeable number of Members. In April, 1966, he founded an Opposition party, the Kenya People's Union-K.P.U. The multi-party status thus created lasted till August, 1969, when K.P.U. was proscribed, following riots and unrest in Kisumu during a presidential visit. Thus returned a *de facto* one party status which lasted till 9 June, 1982, when by act No. 7, Kenya became *de jure*, one-party state.

The Kenya African National Union has, regardless of prevailing Party System in Kenya, been the ruling party since 1963. In that period, it has established itself as the national party for Kenyans. True, it was initially more of a conglomeration or confederated union of the erstwhile district/provincial ethnically based parties, but has exuded remarkable tolerance and elasticity within its ranks to accommodate the obviously strong parochial interests and variant political philosophies. Such status for KANU might have been seen at the inception as necessary expediency to facilitate attainment of independence, but became the established mode, enabling the absorption of defectors, opposition parties, dissidents, etc. This, combined with the ability to heal fissures is borne out by the incorporation, respectively, of the two opposition parties K.A.D. and A.P.P. in 1964 and five years later, the K.P.U.

Return to Multi-Partyism

Out of the sixth general elections of 21 March, 1988, there

arose some dissatisfaction with the manner in which they were conducted. This developed into open challenge of the party structure and leadership. Such challenge and the ensuing dissidence was propitious for the take-off of the crusade for a return to multi-partyism. The crusade gained such irreversible momentum that, on 10 December, 1991, Parliament enacted act No. 12, amending the Constitution to re-introduce multi-partyism.

There are now close to ten registered political parties, viz: the Kenya African National Union - K.A.N.U.; the Forum for Restoration of Democracy—Kenya—FORD-K; Forum for Restoration of Democracy — Asili — FORD-A; Democratic Party of Kenya—DP; Kenya National Democratic Alliance — KENDA; Social Democratic Party of Kenya — SDP; Labour Party Democracy — LDP ; Kenya National Congress — KNC; Kenya Social Congress — KSC, the party of Independent Candidates of Kenya, P.I.C.K.

The political philosophies enunciated by these parties do not seem to explicitly differ from one another. They all seem to be in favour of sessional paper No. 10 of 1965, on African Socialism and its application to development in Kenya. K.A.N.U. has maintained the policies and principles contained in this document. What seems to be at the center of the proliferation of the present political parties is the difference in approaches to management of government and state affairs. The new parties have in various ways, expressed concern at what they see as "excess government" and their determination to reduce it so as to ensure "good governance". In their manifestoes the parties do not seem to offer new or different blueprints of political philosophy.

THE POLITICAL SYSTEM IN KUWAIT

Mohammed Ibrahim Al-Askary

Kuwait has lived from the very beginning of its long history on the principles of democracy striving towards a better future in which the country enjoys greater prosperity and higher international standing, and in which also the citizens are provided with more political freedom, equality and social justice through continuous consultation in ruling, safeguarding the unity and stability of the country.

In the year 1962, the first written Constitution was issued to put into force the political system for the State of Kuwait.

Main features of the Constitution

The Constitution of the State of Kuwait, promulgated in 1962 and which comprises 183 articles, is the basic organizer to practise the political power. It stipulates that Kuwait is an Arab State, independent and fully sovereign. The people of Kuwait is a part of the Arab Nation. The religion of the State is Islam, and the Islamic Sharia shall be a main source of legislation. The official

language of the State is Arabic. Kuwait is a hereditary Amirate, the succession to which shall be in the descendants of the Late Mubarak Al-Sabah. The Heir Apparent shall be designated within one year, at the latest, from the date of accession of the Amir. His designation shall be effected by an Amiri order upon the nomination of the Amir and the approval of the National Assembly which shall be signified by a majority vote of its members in a special sitting.

The system of Government is based on the principle of separation of powers functioning in co-operation with each other in accordance with the provisions of the Constitution.

Legislative power shall be vested in the Amir, the Head of State, whose person shall be immune and inviolable and the National Assembly in accordance with the Constitution. The Amir Shall have the right to initiate, sanction and promulgate laws.

Executive power shall be vested in the Amir, the Cabinet and the Ministers, in the manner specified by the Constitution. The Amir shall, after the traditional consultations, appoint the Prime Minister and relieve him of office. The Amir shall also appoint Ministers and relieve them of office upon the recommendation of the Prime Minister. Ministers shall be appointed from amongst the members of the National Assembly and from others. The number of Minister in all shall not exceed one-third of the number of the members of the National Assembly.

Judicial power shall be vested in the Courts, which shall exercise it in the name of the Amir within the limits of the Constitution.

It is clear that the Constitution of the State of Kuwait displays a political system which is in between the presidential system (the Cabinet shall be responsible before the Amir) and the parliamentary system (every Minister shall be responsible to the National Assembly for the affair of his Ministry).

The National Assembly

The National Assembly is composed of fifty members elected directly by universal suffrage and secret ballot in accordance with the provisions prescribed by the electoral law. Ministers who are

not elected members of the National Assembly shall be considered *ex-officio* members thereof. The term of the National Assembly shall be four calendar years commencing from the day of its first sitting; it shall have an annual session of not less than eight months. The said session may not be prorogued before the budget is approved. The Amir shall summon the National Assembly to hold its first meeting within two weeks of the end of the general election by an Amiri decree. The National Assembly shall by decree, be called to an extra-ordinary session if the Amir deems it necessary, or upon the demand of the majority of the members of the Assembly. The Amir shall announce the prorogation of ordinary and extra-ordinary sessions. The National Assembly shall elect at its first sitting and for the duration of its term a President and a Deputy President from amongst its members. In all cases election shall be by an absolute majority vote of the members present. The Assembly shall form, within the first week of its annual session, the Committee's necessary for its functions. Its sittings shall be public, though they may be held in secret upon the request of the Government, the President of the Assembly or ten of its members. The debate on such request shall be held in secret.

For a meeting of the National Assembly to be valid more than half of its members must be present. Resolutions shall be passed by an absolute majority vote of the members present, except in cases where a special majority is required. When votes are equally divided, the motion shall be deemed to be rejected.

The National Assembly shall at all times have the rights to set up committees of inquiry or to delegate one or more of its members to investigate any matter within its competence. Ministers and all Government officials must produce testimonials, documents and statements requested from them. If the Assembly passes a vote of no-confidence against a Minister, he shall be considered to have resigned his office as from the date of the vote of no-confidence and shall immediately submit his formal resignation. The question of confidence in a Minister may not be raised except upon his request or upon a demand signed by ten members, following a debate on an interpellation addressed to him. The Assembly may not make its decision upon such a request before

the lapse of seven days from the presentation thereof.

The Prime Minister shall not hold any portfolio, nor shall the question of confidence in him be raised before the National Assembly, if it decides that it cannot co-operate with the Prime Minister, the matter shall be submitted to the Amir, who in this case may either relieve the Prime Minister of office and appoint a new Cabinet or dissolve the National Assembly.

Every member of the National Assembly may put to the Prime Minister and to Ministers questions with a view to clarifying matters and interpellations with regard to matters falling within their competence.

A member of the Assembly represents the whole nation. He shall safeguard the public interest and shall not be subject to any authority in the discharge of his duties in the Assembly or in its Committees. He has the right to initiate bills. A member of the National Assembly may not interfere with the work of either the Judicial or the Executive Power. He will be incompatible with public office except in the cases where compatibility is permitted in accordance with the Constitution. During his mandate, he will not be appointed on the board of directors of a company, nor shall he participate in concessions granted by the Government or by public bodies.

Electoral Process

The members of the National Assembly are elected directly by universal suffrage and secret ballot. A member of the National Assembly shall satisfy these qualifications: to be a Kuwaiti by origin in accordance with law; be qualified as an elector in accordance with the electoral law; be not less than 30 calendar years of age on the day of election; and to be able to read and write Arabic well. His name should be listed in one of the electoral registers. He shall not have the right to run himself as a candidate in more than one electoral constituency. Kuwait is divided into twenty-five constituencies. Each constituency elects two members to the National Assembly. They are elected by relative majority.

Every Kuwaiti male who is 21 complete calendar years of age has the right to vote. With the exception of the one who is

convicted of serious crime or in a crime violating the honor or integrity until his rehabilitation. No member of the armed forces or police shall have the right to vote. Every elector shall perform his electoral rights himself in the electoral constituency where his residence is.

Every elector shall have the right to annual the elections in his electoral constituency. Every candidate shall have the right to annual the elections in the electoral constituency where he runs himself as a candidate.

LEGISLATIVE AUTHORITY AND ITS PROCEDURE IN MALAYSIA

Dato Haji Wan Zahir Bin Sheikh Abdul Rahman

Introduction

Malaysia practises parliamentary democracy which is quite similar to the Westminster type of democracy. Malaysia has also a constitutional Monarch known as the *Yang di-Pertuan Agong*. He is the Head of State and the Government is carried out in his name.

Malaysia upholds the concept of separation of powers and the Constitution defines authorities into three distinct categories :

- (i) Executive Authority, which is vested in the *Yang di-Pertuan Agong*;
- (ii) Legislative Authority which is vested in Parliament; and
- (iii) Judicial Authority which is vested in the judiciary.

Executive Authority

In the exercise of his executive authority and all his functions under the Constitution and federal law, the *Yang di-Pertuan Agong* acts in accordance with the advice of the Cabinet or of a Minister (normally the Prime Minister) acting under the general authority of the Cabinet except as otherwise provided by the

Constitution. He is entitled, at his request, to any information concerning the Government of the federation which is available to the Cabinet.

Legislative Authority

The legislative authority of the federation is formally provided by article 44 of the Federal Constitution. Nevertheless, Parliament may delegate its law making power to the bodies or persons.

Constitutionally, Parliament consists of the *Yang di-Pertuan Agong*, *Dewan Negara* (hereinafter called Senate) and *Dewan Rakyat* (hereinafter called House of Representatives) and laws are enacted by all the three acting together. But, in certain cases, law can also be passed by the *Yang di-Pertuan Agong* and by *Dewan Rakyat* only. This may apply when the bill involves money or financial matters.

In Malaysia, Parliament and State Assembly each has a term of five years unless it is sooner dissolved, there is a General Elections held after every five years. Whenever Parliament dissolves, General Election should be held within sixty days in West Malaysia and ninety days in East Malaysia. From the date of the dissolution, Parliament must be summoned to meet not later than 120 days. Since independence in 1957, Eight General Elections had been held.

Election Commission

To ensure that elections are conducted fairly, the Constitution establishes an Election Commission which is independent of Government. Apart from that, to ensure that the Commission cannot be interfered with by Government, the Constitution provides that a member of the Commission may not be removed from office except on the same grounds and in the same manner as provided for a Judge. Functions of the Election Commission are to delimit constituencies; to prepare and revise electoral rolls; and to conduct elections to the House of Representatives and the Legislative Assemblies of the State Assemblies.

Qualifications of Electors

According to article 119 of the Constitution, every citizen

shall be qualified to be an elector who on the qualifying date has attained the age 21 years; and is resident in a constituency or, if not so resident, is an absent voter.

Every citizen is entitled to vote in a constituency in any election to House of Representatives or the Legislative Assembly unless he is disqualified by the grounds given below :

- (a) on the qualifying date, he is detained as a person of unsound mind or is serving a sentence of imprisonment; and
- (b) having before the qualifying date been convicted in any part of the Commonwealth for an offence and sentenced to death or imprisonment for a term exceeding 13 months and he remains liable on the qualifying date to suffer any punishment for that offence.

In addition, no person may, in the same election, vote, in more than one constituency.

Besides having to vote directly in the General Election, there are certain electors who may vote by post. In doing so, firstly they have to register as absent voters. The categories of absent voters include the following groups of citizens:

- (a) a serving member of any regular naval, military or air force of the Federation or the Commonwealth;
- (b) the wife of a person in group (a), who is accommodated in quarters provided by the force at the date of application for registration;
- (c) a person in the Federal or State public service or in the service of any local authority or statutory body exercising powers vested in it by federal or State law, who is on duty outside the Federation;
- (d) the wife of a person in group (c), who is living with him outside the Federation at the date of application for registration;
- (e) a person engaged in full-time studies at a University, technical college, training college or other educational

institution outside the Federation; and

- (f) the wife of a person in group (c), who is living with him at the date of application for registration.

These postal voters are sent ballot papers well in advance so as to enable them to vote in an election for the constituency for which they are registered.

Dewan Neagara (Senate)

The Senate has two kinds of members:

- (i) Those who are elected by State Legislatures; There are 26 elected members; 2 members are elected by each of the 13 State Legislative Assemblies.
- (ii) Those who are appointed by the *Yang di-Pertuan Agong*. The total number of the category of Senators is 43 members.

The term of office of a Senator is three years and may be extended maximum to six years and is not affected by a dissolution of Parliament.

The Senate elects one of the Senators as President and another as Deputy President. Unlike the House of Representatives, it cannot elect a non-member as President.

Dewan Rakyat (House of Representatives)

At present the House of Representatives consists of 180 elected members as follows: 133 members from Peninsular Malaysia inclusive of one member from Federal Territory of Labuan; 20 members from Sabah, and 27 members from Sarawak.

All members are elected by the direct vote of the people in elections conducted by an independent body known as the Election Commission.

The President of the House of Representatives is normally called the Speaker, who is either a member of the House or a non-member. He is not disqualified for election as a member of the House. The House, also elects two Deputy Speakers who must be from amongst members of the House.

The present Speaker is a non-member. A non-member Speaker cannot be appointed Minister, Deputy Minister or Parliamentary Secretary, nor may he vote on any matter before the House.

Qualifications for Membership

Every citizen resident in the Federation is qualified to be a members: of the Senate, if he is not less than 30 years old; and of the House of Representatives, if he is not less than 21 years old, unless he is disqualified by the Constitution or by any law made under article 48 of the Constitution.

A member of either House may resign by writing to the President of the Senate, if he is a Senator and to the Speaker, if he is a member of the Lower House. If a member of either House is absent without leave of the House from every sitting of the House for six months, the House may declare his seat vacant.

Clerk of the Senate and Clerk of the House of Representatives

The Senate's principal executive officer is the Clerk to the Senate and the House of Representatives is the Clerk to the House of Representatives. Both Clerks are appointed by the *Yang di-Pertuan Agong* and hold office until the age of 60 years or such other age as Parliament may be law provide.

They may be removed from office on the same grounds and in the same manner as provided judge in the Constitution. They are disqualified for being members of either House or of the Legislative Assembly of any State.

Meetings of Parliament

The power to summon, prorogue or dissolve Parliament is with the *Yang di-Pertuan Agong*.

Parliament is divided approximately into 5 parts and each part is called a session. The two Houses do not sit continuously throughout a session. They hold about three or four meetings during each session. Each meeting usually lasts for about ten to fifteen days in the House of Representatives and for about five to ten days in the case of the Senate. However, one meeting known

as the budget meeting lasts as long as six to seven weeks in the House of Representatives and for one to two weeks in the Senate.

The quorum of the House of Representatives, fixed by Standing Orders is 26 and that of the Senate's 10, excluding the Presiding Officer.

Select Committees of both Houses

At present, according to the Standing Order, there are provisions for the appointment of Committees of both Houses by the members of the House. The Committees are as follows :

Committee of Selection: According to the Standing Orders of the House, a Committee known as the Committee of Selection will be appointed at the beginning of each Parliament. The main purpose of the Committee is to appoint members for the various Select Committees of the House.

Public Accounts Committee :

Only House of Representatives has this Committee. The duty of this Committee is to examine the following :

- (a) the accounts of the Federation and the appropriation of the sums granted by the Parliament to meet the public expenditure;
- (b) such accounts of public authorities and other bodies administering public funds as may be laid before the House;
- (c) report of the Auditor-General laid before the House in accordance with article 107 of the Constitution; and
- (d) such other matters as the Committee may think fit, or which may be referred to the Committee by the House.

Standing Orders Committee

The duty of this Committee is to consider from time to time and report on all matters relating to the Standing Orders which may be referred to it by the House.

House Committee

This Committee considers and advises the Speaker or Presi-

dent upon all matters connected with the comfort and convenience of the services and amenities available to members of the House.

Committee of Privileges

Any matter which appears to affect the power and privileges of the House is referred to this Committee. Decision on any matter decided by the Committee is reported back to the House for final approval.

Apart from the above Committees, there is another Committee known as Special Select Committee whose formation is on an *ad hoc* basis. This Committee is set up in accordance with the Standing Orders, if the members require to postpone the Bill and to be looked into by the Committee before reporting it back to the House for approval.

Each Committee, has its own Chairman and members. Normally, the members of the Committee are appointed or selected in the beginning of each session of the Parliament, in case of the House of Representatives, whereas in case of the House of Senate, the members of the Committee are appointed usually at the beginning of each meeting but functions and responsibilities of both are usually the same.

Parliamentary Procedure

Each House—the House of Representatives or the House of Senate—regulates its own procedure through Standing Orders which have been drawn up along the lines similar to the British Parliament with some variations to suit local peculiarities.

The decision of each House is taken either by a voice or by a division. Normally voting is by simple majority but vote certain constitutional matters, which are classified as important, are decided by a two-third majority. Matters that normally require a two-third majority include the status of a Malay reservation, Malay language, delimitation of constituencies, Islamic religion and others which are mentioned under article 159 of the Constitution. Two-third majority means vote of not less than two-third of the total number of members of that House.

Legislative Process

The power to make federal laws vests in the Parliament. A Bill may originate in any of the two Houses. However, a Money Bill originates in the House of Representatives because the House of Representatives has the exclusive power over financial matters. Such Bills are introduced by Minister.

There are four types of Bills that may be introduced:

- (i) **Private Members' Bills** : These are the Bills introduced by members other than Ministers;
- (ii) **Private Bills** : These are Bills affecting only some particular person, association or body;
- (iii) **Hybrid Bills** : These are Bills introduced either by Ministers or private members which, in the opinion of the Speaker or President, appears to effect prejudicially individual rights or interest although general in their application;
- (iv) **Public or Government Bills** : These Bills are introduced by Ministers relating to matters of Government policy and having a general application over the entire nation.

When a Minister decides to introduce a Bill in Parliament, he first of all draws up the policy of the Bill in consultation with the Attorney-General who advises the Minister on its legal and constitutional implications. Cabinet approval of the policy is then sought. Once approved, interested parties such as the Treasury and Auditor-General are invited to express their views on the proposed Bill, within a specified time. This follows with the Minister seeking the approval of the Cabinet to have the Bill drafted. When the approval is obtained, the parliamentary draftsman drafts the Bill together with an explanatory statement. Upon completion, the Draft Bill is re-submitted by the Minister to the Cabinet for approval to have the Bill introduced in Parliament. Having secured such approval, the Minister gives notice of his intention to the Clerk of both the Houses separately to introduce the Bill. On the instruction of the Clerk of the Parliament, sufficient copies of the Bill are then printed by the Government Printer and forwarded to the Parliament for distribution to all members.

In each House, a Bill is required to undergo four stages: the first reading; the second reading; Committee stage; and the third reading

First Reading

According to the Standing Orders, a Minister can introduce any Bill in any House. However, the Minister is required to give the clerk at least one day's notice of his intention to present a Bill, that is to have the Bill read for the first time. If the Bill is of importance in nature the Speaker may waive that requirement. The first reading is merely a formality. It is merely presentation of the Bill by the Minister by reading the long title of the Bill.

Second Reading

This is the most important stage, as at this stage, the general principles of the Bill are debated. In order to proceed with the second reading, the Minister must move a motion to that effect; and this motion has to be seconded. A Bill cannot be read a second time until it has been printed and circulated to all members.

Committee Stage

When the debate on the second reading is completed, the House automatically resolves itself into a Committee of the Whole House. The purpose of the Committee stage is to enable members to discuss the details of the Bill in a less formal manner. Any amendment to the Bill is normally amended during this stage. When the Committee has considered the Bill, the Bill is ready for the next stage.

Any member requesting a Bill to be considered by a Special Select Committee instead of the Committee of the Whole House has to do so by a motion to that effect which must be passed by the House.

In the event of the House agreeing to refer the matter to the Special Select Committee, the Committee of Selection would nominate its six members.

Third Reading

Like the first reading, the third reading is also a mere formality; debate is not allowed, unless it is confined to the contents of the Bill and no substantive amendments may be proposed at this stage. When the motion on the third reading is agreed to, the Bill is accordingly passed.

When a Bill is passed in this manner in either House, it is then transmitted or sent to the other House for consideration. When the Bill is considered by the other House in a similar procedure, it is returned to the House from where it originates. For example, if a Bill is first passed in the House of Representatives, it is transmitted to the House of Representatives by the Senate after consideration. Where there are amendments, the House of Representatives may accept or reject them. Should the amendments be rejected, the Speaker would proceed to appoint a Committee to draft the reasons for the rejection. Reasons are then transmitted to the Senate together with the Bill and the message. On receipt, it is left to the Senate to decide either to continue to insist on its amendments or to accept the rejection of its amendments by the House of Representatives. The decision is duly communicated to the House of Senate. If the Senate insists on its amendments and the House of Representatives does not accept them, the motion "That the Bill be laid aside" is moved. This motion is the final step and article 68 of the Federal Constitution becomes operative. According to this article, the Bill may be presented to the *Yang di-Pertuan Agong* for his assent after the lapse of one month if it is a Money Bill and after one year, if it is not a Money Bill. However, this primacy of the House of Representatives over the Senate does not exist in the event of a Bill involving both the Houses. The function of the Senate in general legislation seems to be of a revising nature with no real authority to reject measures passed by the House of Representatives, the exception being Bills involving constitutional amendments.

Royal Assent

Bill which is passed by the Parliament is sent to the *Yang di-Pertuan Agong* for his assent. A Bill shall become law on being assented by the *Yang di-Pertuan Agong*. But no law shall come

into force until it is published and finally gazetted.

Before a Bill can be passed as a law certain stages of formal procedures have to be followed. This has to be done in order to conform with the procedures as laid out in the Constitution. If it is not done in accordance with the constitution, then any law can be declared null and void by the court.

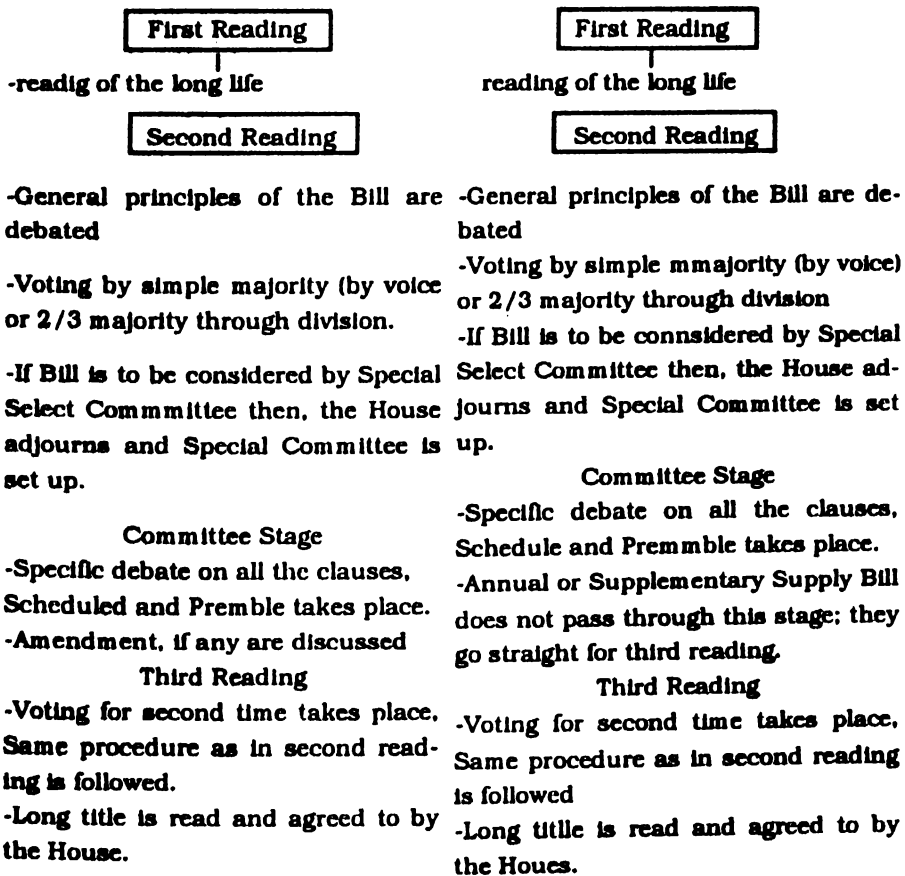
How a Bill Becomes A Law

(A Bill can be introduced in either House with an exception of a Money Bill, where it can only be introduced in the House of Representatives).

A bill introduced in the
House of Representatives.

A Bill introduced
in the House of Senate.

Action in Bill



**When a Bill is passed by either
House it is transmitted to the
other House for their consideration.**

Refer to Agong for Assent

- **Money Bill, within 30 days has to be assented.**
- **Other Bill, first stage, 30 days given to him for consideration.**
- **If no amendment then at the expiry of another 30 days, automatically approves.**
- **If there is a counter proposal by Agong then the Bill is resubmitted to Parliament within the first 30 days.**
- **Once received the counter Bill, both Houses sit again and similar procedure takes place.**
- **Upon completion by both Houses the Bill is sent again to the Yang di-Pertuan Agong for his assent and it has to be approved within 30 days.**
- **No further amendment or counter proposal is allowed. The bill is considered assented although Agong may refuse to give his assent at this stage.**

Gazetted and Printed

- **The process is completed once the bill is gazetted and printed.**

THE PARLIAMENT OF THE PHILIPPINES UNDER A PRESIDENTIAL FORM OF GOVERNMENT

Camilo L. Sabio

Introduction

The Philippines is a democratic and republican state. Sovereignty resides in the people and all government authority emanates from them.

Basically, as a presidential form of government, the Philippines has three branches of Government—the Executive, the Legislative, and the Judicial branches—which are co-ordinate, co-equal and co-important.

The executive power is vested in the President of the Philippines who serves for a fixed term of six years and is not eligible for re-election. The President has control of all the executive departments, bureaus and offices, and he ensures that the laws are faithfully executed. On the other hand, the legislature power is vested in the Congress of the Philippines which consists of the Senate and the House of Representatives. The Judicial power is vested in the Supreme Court and in such lower courts as may be

established by law.

A system of checks and balances govern the relationship of the three branches, while the congress sets the policy, the President may reject such policy through his veto power. The Congress may override such veto with a 2/3 vote of all the Members of each House, voting separately. Also, only the Congress, has the power of impeachment. The House of Representatives has the exclusive power to initiate all cases of impeachment. The Senate has the sole power to try and decide all cases of impeachment. Impeachable officials are the President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions and the Ombudsman. Although the Congress has the power to define, prescribe, and apportion the jurisdiction of the various courts. It cannot, however, deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5. Article VIII of the Philippine Constitution which include the original jurisdiction over cases affecting Ambassadors, other Public Ministers and Consuls and over petitions for *certiorari*, *prohibition*, *mandamus*, *quo warranto*, and *habeas corpus*. The Supreme Court also passes upon the constitutionality of treaties, international or executive agreements, and laws and upon the constitutionality, application or operation of presidential decreed, proclamations, orders, instructions, ordinances and other regulations.

The Congress of the Philippines; Its Powers and Functions

A. Policy Making

The legislative power is vested in the Congress of the Philippines, except to the extent reserved to the people by the provision on initiative and referendum. As such, it is the policy-making body of the Government. The Congress of the Philippines is a bicameral body composed of the Senate and the House of Representatives.

The Senate is composed of twenty-four Senators who are elected at large by the qualified voters of the Philippines. On the other hand, the House of Representatives is composed of not more than two hundred fifty members elected from legislative districts apportioned among the provinces, cities and the Metropolitan Manila area in accordance with the number of their respective inhabitants and on the basis of a uniform and progressive ratio and those who, as provided by law, are elected through a party list system of registered national, regional and sectoral parties or organizations.

The Congress of the Philippines, in the exercise of its law-making function, possess vast powers, including its pre-eminent 'power of the purse' its members, however, are subject to certain prohibitions, notably on conflict of interest.

B. Appropriationns

All appropriations, revenue of tariff bills and bills authorizing increas of the public debt, shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments.

Of all the powers vested in the Congress of the Philippines, nothing holds greater importance than the power of the purse. Command of the purse is a pre-eminent Congressional power. Under the Philippines Constitution, it is a power vested in the entire Congress. But within the framework of the bicameral system, all money Bills must originate in the House of Representatives.

C. The Question Hour and Other Inquiries

In Aid of Legislation

The Constitution provides that the heads of departments may upon their own initiative, with the consent of the President, on upon the request of either House, as the rules of each House shall provide, appear before and he heard by such House on any matter pertaining to their departments.

Likewise, the Congress may, through its Oversight Committee, look into the implementation by the Executive Department

of the laws, it passed. Finally, the Congress can, in aid of legislation, inquire into, and investigate anomalies committed by public officials, in accordance with duly published Rules of Procedure. Relative thereto, the Committee concerned may, by a majority vote of all its members, punish for contempt any person who, having been duly summoned, refuses to be sworn or placed under affirmation or to answer any legal inquiries or to produce any books, papers, documents or records in his possession.

D. Promulgation of its Own Rules and

Punishment of its Members

Each House may determine the rules of its proceedings, punish its Members for disorderly behaviour, and, with the concurrence of two-thirds (2/3) of all its Members, suspend or expel a Member.

E. Appointment

The President nominates and, with the consent of the Commission on Appointments, appoints the heads of the executive departments. Ambassadors, other public ministers and Consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him by the Constitution. The Congress also may, by law, vest the appointments of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards. The Commission on Appointments consists of the President of the Senate, as *ex officio* Chairman, twelve Senators and twelve Members of the House of Representatives elected by each House on the basis of proportional representation from the political parties and parties or organizations registered under the party-list system represented therein.

F. Amnesty

With regard to the grant of amnesty, the President may only do so with the concurrence of a majority of all the Members of the Congress.

G. Emergency Powers

In times of war or other national emergency, the Congress may, by law, authorize the President, for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy. Unless sooner withdrawn by resolution of the Congress, such powers shall cease upon the next adjournment thereof.

The Congress voting jointly, by a vote of at least a majority of all Members in regular or special Session, may revoke a proclamation placing the Philippines or any part thereof under martial law or suspending the privilege of the writ of *habeas corpus*, which revocation shall not be set aside by the President.

H. Declaration of the Existence of a State of War

The Congress, by a vote two-thirds (2/3) of both Houses in joint session assembled, voting separately, shall have the sole power to declare the existence of a state of war.

I. Privileges and Obligations of, and Prohibitions

Against Members of Congress

A Senator or Member of the House of Representatives shall, in all offences punishable by not more than six years' imprisonment, be privileged from arrest while the Congress is in Session. No Member shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any Committee thereof.

All Members of the Senate and the House of Representatives shall, upon assumption of office, make a full disclosure of their financial and business interests. They shall notify the House concerned of a potential conflict of interest that may arise from the filing of proposed legislation of which they are authors.

No Senator or Member of the House of Representatives may hold any other office or employment in the Government, or any subdivision, agency, or instrumentality thereof, including Government owned or controlled corporations or their subsidiaries, during his term without forfeiting his seat. Neither shall he be appointed to any office which may have been created or the emolu-

ments thereof increased during the term for which he was elected.

No Senator or Member of the House of Representatives may personally appear as counsel before any court of justice or before the Electoral Tribunal, or quasi-judicial and other administrative bodies. Neither shall he, directly or indirectly, be interested financially in any contract with, or in any franchise or special privilege granted by the Government, or any subdivision, agency, or instrumentality thereof, including any Government-owned or controlled corporation, or its subsidiary, during his term of office. He shall not intervene in any matter before any office of the Government for his pecuniary benefit or where he may be called upon to act on account of his office.

G. The Legislative Process: Or How a Bill Becomes a Law

Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof.

No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage, except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the *yeas* and *nays* entered in the journal.

Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same, he shall sign it; otherwise, he shall veto it and return the same with his objections to the House where it originated, which shall enter the objections at large in its Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the Members of such House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered, and if approved by two-thirds of all the Members of that House, it shall become a law. In all such cases, the votes of each House shall be determined by *yeas* and *nays*, and the names of the members voting for or against shall be entered in its

Journal. The President shall communicate his veto of any bill to the House where it originated within thirty days after the date of receipt thereof: otherwise, it shall become a law as if he had signed it.

The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object.

MY PERSONAL EXPERIENCE WITH THE POLISH SEJM

Ryszard Stemplowski

The historic round table agreement of April 1989 led in June that year to partly democratic parliamentary elections in which the newly restored and freely elected Senate became 99 per cent "Solidarity" caucus, whereas the round table division of seats in *Sejm* (Chamber of Deputies) made it possible for the "Solidarity" to win all the seats subject to free elections (35 per cent of seats in the Chamber). The numerical weakness of that caucus (Parliamentary Civic Committee) in *Sejm*, however, did not prevent it from rallying all the non-communist caucuses and initiating and adopting important bills to implement major systemic reforms in Poland. Not quite unexpectedly, the Deputies and Senators of the Parliamentary Civic Committee, unexperienced as they were, took rather long months to realize how crucial for the reform was the role of the parliamentary staff. A separate chancellor of Senate was established (February 1990) and a need to reform the Chancellor of *Sejm* was recognised. Following a motion by the Parliamentary Civic Committee, I was appointed new Chief of the Chancellory of *Sejm* by the Presidium of *Sejm* (the Speaker and his Deputies, one of the Deputies being member of that caucus). I

arrived on 1 June, 1990, in the premises of *Sejm* to face the challenge of supporting the *Sejm* works and modernizing its Chancellory.

In the beginnings of 1990, my conceptual framework for the modernization project was clear, if general. The new *Sejm* was losing its role of a rubber-stamp for the decisions taken by the leaders of a hegemonic party; it was resuming its role of law-maker, while the dominant party disappeared altogether. It was a truly revolutionary change and, naturally enough, it should have allowed for the Chancellory of *Sejm* to shed its previous role of a passive *Sejm* attendant, and to assume a role of an active support agent in the law-making process in *Sejm*.

The Chancellory of *Sejm* has been defined as an integrated and full-fledged *Sejm* service system for legal, organizational, logistical, advisory and financial matters. All the senior staff (general directors, bureau directors and their deputies) are appointed by, and, they report to, the Chief of the Chancellory of *Sejm*, the remaining portion of the staff (including the committee secretaries) being appointed by the bureau directors and report to them. We employ some 1200 individuals. In the process of the *Sejm*, sittings and Committee work, the staff takes orders from the elected officers (Marshal of *Sejm* or Speaker), Vice-Marshals of *Sejm* when they preside, Committee Chairmen, etc. and fulfil their duties according to the elaborated Regulations of the Chancellory of *Sejm*, the regulations being based on the Statutes of the Chancellory of *Sejm* (a resolution of the Presidium of *Sejm*) conferred by the Chief of the Chancellory of *Sejm*.

To facilitate a desirable exchange of information on the subject under consideration, let me briefly outline some problems, I faced.

(A) How to modernize an institution in action? If I was not intending to pass into history as a fellow who perhaps might have had some not entirely stupid ideas but paralysed *Sejm* with his academic experiments, I had to provide the extremely hard working and reform-motivated *Sejm* with as efficient services as possible while at the same time modernizing the very services; current *Sejm* work comes first, was my motto. Fortunately, we have

managed to use modernization tools as a feed-back to the current services.

(B) How to improve staff? Personnel selection is the most difficult task. I am focusing on the senior staff. Out of 37 director and deputy director posts, 7 are held by the people who had the same or a similar position before 1 June, 1990. I was introducing the changes step by step. The only standard that counts is that of professional nature, provided there is no "skeleton in the closet". Now, the most numerous group among the new people are academics. New people means big intellectual potential and managerial talent and, alas, poor experience in good administration. On balance, it pays off. Some people learn fast.

(C) How to assure that political impartiality or an even-handed approach of the staff in respect of every M.P., and of each and every caucus or a professional attitude towards each and every bill, regardless of its political connotation and/or origin? Although staff members may belong to a political party, they are not being encouraged to do so; they definitely may not play an active political role, and in fact hardly any has any political affiliation at all. It is, of course, not the question of the employee having no opinions of his (her) own; conversely, a person with no bearings is liable to commit any self-serving villainy since his or hers opportunism—and let's admit to one is immune—will not be curbed by anything. Given the fragmentation of Sejm (18 caucuses in the 460 MPs-strong chamber, the biggest caucus comprising 60 Members), the rule of impartiality has its charm.

(D) How to secure proper services in the M.P's offices and the caucus offices? The rule of impartiality of the Chancellory of Sejm required that the staff and direct services to the caucuses, and the individual MPs, be detached from the Chancellory of Sejm. They are financed from the budget of the Chancellory of Sejm, according to the Presidium of Sejm's resolution, the staff being employed by the caucuses (one employee per 10 MPs on average) and the members themselves (the members run almost 500 offices in their electoral districts and have similar number of staff), and money being spent accordingly. The Chancellory of Sejm offers assistance of a general and logistical nature. Also, apparently, that portion of the modernization project (the detachment of staff)

proved to be extremely difficult to implement under the prevailing condition of the transitory period, and it is only now, after the first fully democratic election of 1991 and after one year of the new electoral term that I am about to overcome reluctance and bring in to completion this year.

(E) How to secure reliable information for *Sejm*? A self-imposed imperative of a far-reaching information self-reliance involved a substantial expansion and reform of the Library of *Sejm* (work now in progress), establishing of an archives and of Publishing Office and setting up of Bureau of Research, as well as better profiling of Bureau of Information, and wide application of computers (the generous help of the U.S. Congress is gratefully acknowledged). What we reduced in terms of staff number (since the caucuses and M.P.s started to hire their own staff), we expanded in these new areas. During the first year of the current electoral term (it is only the second year of the Bureau of Research operations) some 70 professionals strong Bureau provided *Sejm*, its organs, individual M.P.s and the Chancellory with over 1300 written answers to sometimes highly complicated questions (including legal opinions), several dozens packages of information material to accompany major bills under consideration, many translations of foreign parliamentary acts into Polish, etc. and published bulletins, etc. External support takes place hardly ever. True, some results may be rather moderate but the Bureau of Research will continue to rely on its own, rather than to contract external, support (Committees are free to invite external experts). We are eager to share our experience and to learn from others.

"A Parliamentary Research Organisation" was the topic of the International Conference on Parliamentary Services in Central and Eastern Europe, sponsored by the European Parliament and the U.S. Congress, organized by the Chancellory of *Sejm*, June, 1992, and 70 participants and observers from 18 countries attended (the proceedings were sent to the secretaries - general of Parliaments). In the area of computing services, we have grown considerably; some 400 Pcs are in operation, and the central unit (Hewlett-Packard) is going to be reinforced with HP 9000/8975 and HP 9000/8475 very soon, to build-up our data bases and the network.

(F) How to provide the means for modernisation? The rule of budgetary autonomy off *Sejm* partly in operation, had to be extended and implemented. It was necessary to free the Chancellory of *Sejm* from the comprehensive government control of salaries (until a civil service is established in Poland, it would be counter productive for the Chancellory of *Sejm* to apply slavishly the inadequate standards of the present public services and administration, given the Chancellory change of its role). However, the most important implication of the autonomous approach was to propose an adequate budget and have it passed by *Sejm*. Without adequate means no real modernization would be possible. Recently, some MPs were outvoted in their attempt to restore the controlling position of the Minister of Finance *vis-a-vis* the Chancellory of *Sejm*. The present budget process is as follows. The draft of the Chancellory of *Sejm* annual budget, *i.e.* for the annual appropriation for *Sejm* (including some *de facto* contingency funds), is submitted to the Presidium of *Sejm* by the Chief of the Chancellory of *Sejm*, the Presidium refers it to the Committee on Rules and Members' Matters which evaluates the Chief's budget and submits its resolution on the subject to the Presidium; only then the Presidium gives the final shape to the budget proposal (it adopts the budget proposal upgrading it to the status of the Presidium's proposal) and, (a) sends it to the Minister of Finance to be incorporated into the State budget bill and submitted to *Sejm* in due course; and (b) refers it to the Committee on Rules and Members' Matters (again) and the Committee on Economic Policy, Budget and Finances for detailed consideration. The Chief of the Chancellory of *Sejm* represents the Presidium of *Sejm* before the Committees and defends and proposal. It is the latter Committee that submits the State budget bill to *Sejm*, and finally, it is *Sejm* itself that completes action on a statutory resolution on a State budget, including the Chancellory part. The Rules of *Sejm* provide that it is the Chief of the Chancellory of *Sejm* who is responsible for the correct allocation and disbursement of the annual appropriation fund (spending authority), the remunerations for MPs and allowances for their offices and caucus offices being regulated by the Presidium of *Sejm* resolutions. The Chancellory of *Sejm* budget amounts to one per thousand part of the State budget for a fiscal year.

(G) How to strengthen legislative service in the Chancellory of *Sejm*? One manifestation of the transition in Poland was the weakening of the government machinery as the old apparatus felt insecure and the new people in posts of responsibility were only gaining experience. At the same time, two manifestations of the new role of the legislative body became obvious: (a) the MPs were not prepared to passively accept whatever bill the government choose to submit and they started to study them in detail and to change them substantially in Committees, and (b) MPs themselves began to draft private bills in quite a great number. Now, the then Legal Office with 16 lawyers (June 1990) was expected to draft bills, counsel Members on great variety of legal matters—not necessarily the bill related — and to provide counsel within the Chancellory. To remedy the impossible state of affairs the legislative Bureau was set up with 32 lawyers (it will continue to grow on) their sole task to provide drafting and legislative expertise. The remaining services have been transferred to the newly established Bureau of Research and the Executive Secretariat of the Chief of the Chancellory of *Sejm*. Also, the priority rule resulted in introducing of computer edited drafts.

(H) How to use the emerging market to improve our services? Proper adjustments in our hotel for MPs and Senators (386 rooms only) and two Restaurants (run by external contractors) had to be made. The transportation services for MPs have not yet been modernized.

(I) How to maximize management effects? First of all, the Chief of the Chancellory has started delegating his authority: (1) The bureau directors were given more responsibility and autonomy. (2) Posts of directors general (corresponding to Under secretaries of State in Ministries) were set up. They co-ordinate and supervise the bureau directors, act as the closest assistants to the Chief of the Chancellory of *Sejm*, and are delegated to act on his behalf. In the absence of the latter, one of them is designated by the Chief of the Chancellory as acting Chief. Secondly, I practiced management by objectives, never imposing myself on them, always winning support of the leading individuals at least. Thirdly, I am using a handsome contingency means to reward innovation and/or stamina, practising a sort of management by exception,

and the directors have the same instrument in their hands. Fourthly, good management required also that people be paid decently (see E). Furthermore, efficient management requires that the Chancellory structure be made functional, procedures be streamlined, clear regulations be established, information flow and mutual inspiration among directors be made possible (integration of the leading staff), and very many more steps be taken. Outstanding are such matters, like permanent training, systemic staff evaluation, etc. We are about to introduce a special institution of the several month long *Sejm* traineeship for candidates aspiring to staff positions.

(J) How to help mass media to report on the *sejm* work? The State of the art in the area of Parliamentary reporting that I shrink from naming publicly led me to purpose seminars and similar methods of the Chancellory's help for journalists. Unfortunately, all such suggestions were resented as alleged attempts at reimposing censorship on the media. We confine ourselves, of necessity, to doing our best to facilitate the work of reporters and try to minimize the effects of the most glaring manifestations of media incompetence. The parliamentary procedure is not easy to understand or to accept, not only for the public at large, when the passions ride high. It appears that the members of the media will have to put in more effort than many other professional groups in an ex-state-socialist country to overcome the limitations of the enslaved mind.

(K) How to help the public at large to see *Sejm* in direct? On the day of my installation the TV had been covering the *Sejm* sittings for almost a year and heated parliamentary debates had already begun to make had impression on the audience accustomed to bear (but not to see, as no systematic live TV coverage was there until 1989) little, if anything, about that docile *Sejm* of the ancient regime anyway. Since neither the TV bosses nor the press were excessively co-operative, we had to use whatever modest ways and means we had, and without prejudice to the Bureau of Information's work with the media, we introduced an extensive program of direct parliamentary information addressed to selected groups, primarily teachers and youth, and a special publication programme of our publishing house. At present, the public relations staff take care of thousands of visitors on guided tours to

watch sittings, meet MPs, and buy, or receive, our publications.

(L) How to match the modernization project to the MPs' expectations? Since I was coming from outside and the project was essentially my own I thought it important to obtain wide support among the MPs, not confining myself to winning the approval by the Solidarity caucus and the Presidium of *Sejm* of my initial and loosely phrased outline plan, and to develop modernization in progress in harmony with the expectations in question. All my efforts notwithstanding, the leading MPs (caucus and Committee Chairmen, Presidium members) were too busy with current affairs of political significance and too satisfied with the improvements in the services they saw, whereas the Committee on Rules and Members' Matters, initially (1989) considered unimportant and composed accordingly did not manage to fully develop its activities before the term was cut short (1991). The present electoral term Committee (elected in December, 1991) demands to be informed in advance on the steps planned by the Chancellory and involving MPs, and it is indeed being provided with abundant information (a permanent sub-committee was set up to study the matters related to the direct services like hotel, restaurants, MPs offices, MPs reimbursements, etc., and to issue opinions in question). Major occasions for a general review of Chancellory work occur when the budget report for the previous year is presented and the budget proposal for the coming year is evaluated.

(M) How to provide office space for the developing services? Since it is the Chief of the Chancellory of *Sejm* he who is administering all the promises of *Sejm* (the Senate is using a portion of the *Sejm* premises), I had to take into account, in the first place the number of new caucuses and a growing number of *ad hoc* Committees. All the caucuses which have corresponding groups to the Senate form a joint caucus, their offices supported by the Chancellory of *Sejm* on the *Sejm* premises. To find office space for the expanding Chancellory services we had to look outside. First, we procured a new house at a close distance to *Sejm*, not an easy thing in Warsaw of to day, and established the Bureau of Research and the *Sejm* Publishing House there, a Bureau of Research outpost (Members Consultants' Division) being established next to the sittings hall. Secondly, an old and unused building within the *Sejm* premises was adapted to house Committee meet-

ings. Thirdly, we are procuring another house from the Ministry of Defence to move the Constitutional Tribunal there and vacate office space it occupies on the *Sejm* premises. This year, the construction for a new book storage facility for the Library is to be started. My idea to construct a building to accommodate MPs and Senators' offices they lack and badly need in *Sejm* is awaiting better times. The adjacent building lot is very attractively located, what we need is the investment fund of the magnitude of over one half of the Chancellory's 1993 budget.

The above mentioned questions do not exhaust the list of problems related to modernization. The architects of the premises used since 1919 by *Sejm* had built several entrances to make the buildings functional. After the World War II, most of the entrances were hardly open or remained unused. The main entrance sufficed for the majority of those authorised or interested, a truly modest number altogether. Suddenly, in mid 1989, *Sejm* became a real legislative body, the second chamber reappeared, soon the chancellories began to develop, the caucuses began receiving visitors, public started crowding the galleries, reporters flocked in force, on the sitting days, there are some 3 thousands individuals on the premises where not even a thousand was present before. During the second half of 1990, we began receiving warning calls about (alleged) bombs on the premises. A year later, a tightening of security measures become inevitably. Since we do not use electronic controls, one measure was to channel specialised groups to specific entrances, e.g., the main entrance was primarily reserved for the MPs, Senators, members of Government, and official guests; the journalists were encouraged to use mainly the entrance closest to the press center in the Bureau of Information; the Chancellory staff, the entrances adjacent to the respective offices, while school group visitors were let in by yet another entrance, etc. The first reaction I heard from politicians and journalists was that the regulation "went against the spirit of democracy and equality of men" (staff was allegedly discriminated against as they were strongly advised against using the main entrance save in emergency or on special assignment). Being aware of the "ultrastalinist" security regulations in force in leading capitals of the Free World, I chose to ignore the critics and maintain the new regulation but the message was clear; given the circumstances, such moves should

be preceded with extensive explanation of motivations.

My understanding of an ideal Parliament implies a qualitatively stronger MPs' involvement in running the services. In the future, once the new electoral law results in limiting the number of caucuses, MP special committees should be set up to play a leading role. In the meantime, the Committee on Rules and Members' Matters is developing its interest in Chancellory activities; its impact is growing slowly but steadily.

I have been able to induce my modernization project, despite the modest, *i.e.*, ancillary role of the Chief of the Chancellory of *Sejm*. However, nothing significant would have been accomplished during these two and a half years had I not felt the strength of the initial support of the historic Solidarity caucus and were it not for the acquiescent attitude of the Presidium of *Sejm*. At present, the Marshal of *Sejm*'s understanding is crucial for the advancement of the modernization effort, as in this democratically elected but sorely divided *Sejm* it is he, who appoints the Chief of the Chancellory. Had we followed the pattern prevailing abroad with respect to Secretaries-general of Parliaments and let *Sejm* elect the Chief of the Chancellory, it might have unnecessarily led too many people to sweet temptations.

Under the Rules of *Sejm*, the Chief of the Chancellory of *Sejm* assists the Marshal of *Sejm* and the Presidium of *Sejm* as well as the Council of Elders (Presidium of *Sejm* and all the caucus chairmen); he attends, *ex officio*, the sittings of these two leading bodies and he has right to speak. It is also this part of the role that makes the office of the Chief of the Chancellory efficient in reforming the Chancellory.

Although we try to learn as much as possible from our colleagues abroad,—and the US Congress has been most helpful, also, Bundesag proved to be our understanding partner,—we do not imitate anybody (if some arrangements mentioned above do not seem startlingly new for you, please reflect on our starting point), and would like to better get to know the working of the Parliaments in France, Italy and in the countries with similar position in the world system to that of Poland's to enrich our own way of serving the Parliament.

Poland is changing fast, our economy in reconstruction is taking off, and we are a stable country, while our course of systemic reforms is irreversible. The Chancellory of Sejm helps in conducting *Sejm* across the most difficult period in modern history; and with its modernization in progress, the Chancellory of Sejm is proud to contribute to Poland's historic institutional change.

THE ASSEMBLY OF THE PORTUGUESE REPUBLIC

Luis Madureira

Portugal is a sovereign Republic, based on the dignity of the human being and on the will of the people, dedicated to building a society based on the principles of freedom, justice and solidarity. The sovereign bodies of the Portuguese Republic are the President of the Republic, the Assembly of the Republic, the Government and the Courts. The Assembly of the Republic is an assembly representing all Portuguese citizens. It is composed of 230 Deputies elected by 22 constituencies by direct and universal suffrage.

Deputies have a four-year mandate. Candidatures are submitted by political parties, independently or in coalition, and lists may include citizens not enrolled in the respective parties.

Portuguese citizens entitled to vote may stand for election subject to the restrictions laid down by electoral law.

The principal powers of the Deputies are to table proposals for constitutional amendments, to table bills, motions for resolutions and draft decisions and to put questions to the Government

on any of the latter's acts or any act of the Civil Service, to request and obtain from the Government information and official publications considered pertinent to the performance of their mandate and to request that Parliamentary Committees of enquiry be set up.

Competence

The competence of the Assembly of the Republic is political, legislative and supervisory, and also covers a series of competences related to other organs.

Within the field of political and legislative competence, the Assembly adopts amendments to the Constitution, enacts legislation on any subject except matters reserved in the Constitution for the Government, grants amnesties, adopts the laws concerning the major options for the Plan and the State Budget, authorises the Government to raise and grant loans and engage in other credit operations, approves treaties, authorises the declaration of a state of siege or a state of emergency, and authorises the President of the Republic to declare war and make peace.

In exercising the competence of supervision, the Assembly of the Republic ensures observance of the Constitution and legislation and scrutinise the acts of Government and Administration of decree-laws for the purposes of refusal of ratification or amendment, receives the accounts of the State and scrutinises annual progress reports and the final implementation of plans.

With respect to competence in relation to other organs, the Assembly of the Republic witnesses the swearing-in of the President of the Republic, examines the Government's programme, gives an opinion on the dissolution of the bodies in the Autonomous Regions, elects five members to the Council of State, ten judges to the Constitutional Court, the Ombudsman, the President of the Economic and Social Council, seven members to the Higher Council of the Bench, five members to the High Authority for the Mass Media and the members of the Higher Council of the Public Prosecution that it is empowered to appoint.

Organisation and working

Each legislative period lasts for four legislative sessions,

each for the duration of one year beginning on 15 October. The Assembly of the Republic normally operates from 15 October to 15 June.

The Assembly meets in Plenary sittings and in Committees every day except Saturdays, Sundays and public holidays. As a rule, there are three plenary sessions per week.

The Chair of the Assembly of the Republic is composed of the Speaker, four Deputy Speakers, four Secretaries and four Deputy Secretaries.

The Speaker of the Assembly of the Republic—the second figure of State after the President of the Republic, whom he substitutes during any temporary absence, as well as when the position is vacant—represents the Assembly, directs its work, ensures that its Rules of Procedure and the deliberations of the Assembly are fulfilled and presides at the Conference of the Chairmen of the parliamentary groups and the Standing Committee of the Assembly of the Republic.

The Assembly of the Republic has 12 Committees laid down in the Rules of Procedure and may constitute Committees of enquiry or Committees for any other specific purpose. Compositions of these Committees corresponds to the representation of Parties in the Assembly.

When the Assembly is not effectively functioning, during the period when it is dissolved or in other cases laid down in the Constitution, the Standing Committee operates and is responsible for observing the activities of the Government and Administration, convening of the Assembly whenever necessary, preparing the opening legislative sessions and exercising the powers of the Assembly regarding the mandate of Deputies.

The Deputies elected for each party or coalition of parties may constitute a parliamentary group.

Common legislative procedure

Initiative for the law lies with the Deputies and parliamentary groups (Bills tabled by Deputies), the Government (Bills tabled by the Government) and the Regional Assemblies of the Autonomous Regions (Bills tabled by Regional Assemblies). Bills admitted

by the Speaker are submitted to the competent Committee for appraisal. Discussion of Bills includes a first reading and subsequent voting, a second reading, and lastly a final vote for overall approval. Texts approved in the first reading are voted in the second reading by the Committees, without prejudice to the power of avocation of the Plenary and final overall voting by the same.

The following laws must be voted in the second reading by the Plenary: The election of persons to hold office in organs of sovereignty; Referendum; Organisation, functioning and procedures of the Constitutional Court; Organisation of national defence, definition of the duties therein and the general foundations for the organisation, functioning and discipline of the Armed Forces; State of siege or state of emergency; Acquisitions, loss or re-acquisition of Portuguese citizenship; Political associations and parties; Setting up, abolishing and changing territorial limits of local authorities; Restrictions on the exercise of rights by the permanent staff of the military and military personnel on active services and Status of members of local authorities, including local finances.

After approval the bill is submitted as a decree of the Assembly of the Republic to the President of the Republic for promulgation. The President may, according to the terms of the Constitution, exercise the right of veto, requesting further examination of the bill. Should the Assembly of the Republic confirm a vote by absolute majority of Deputies in office, the President should promulgate the law within a period of eight days subsequent to receipt.

However, a majority of two-thirds of Deputies present will be demanded, providing this is greater than the absolute majority of Deputies in office, to confirm decrees concerning the following areas: Foreign relations; Limits between the public sector, private sector and co-operative and social sector of ownership of means of production; and, Rules of Procedure for elections to the European Parliament and other electoral acts envisaged in the Constitution.

Parliamentary Committees of Enquiry

The object of parliamentary enquires is fulfilment of the Constitution and laws and examination of the acts of Government and Administration. Initiative for this lies with parliamentary groups

and Deputies who do not constitute a parliamentary group, the standing specialised Committees of the Assembly, the Deputies (at least 10) and the Prime Minister. Parliamentary Committees of enquiry must always be set up whenever request by one-fifth of Deputies in office up to the limit of one per Deputy and per legislative session. Having deliberated on holding an enquiry, a Committee will be set up and charged to carry out the enquiry. When completed, the Parliamentary Committee of enquiry will draw up a report to be published in the '*Diário da Assembleia da República*' which will be examined by the Plenary during the period allocated on the agenda in general debate up to 30 days subsequent to publication. The Parliamentary Committees of enquiry enjoy the powers of investigation enjoyed by judicial authorities.

Petitions

Petitions, remonstrances, claims or complaints submitted in writing to the Speaker of the Assembly of the Republic, after being accepted, are examined by the Committees and brought up at plenary meetings of the Assembly and, in certain cases, fully published, as are the reports deemed suitable for publication. The author or the first of the authors of the petition is notified of the committee's report and subsequent measures adopted.

Organs of Administration and Services of the Assembly of the Republic

The organs of administration are the Speaker, who superintends administration of the Assembly and who has the competences attributed to him by the Constitution, by law and by Rules of Procedure and the Administrative Council, which is the body for consultation and management.

The Services of the Assembly give technical and administrative support to the bodies of the Assembly of the Republic and Deputies, and are the following: Secretary-General; Legal Auditor; Legal Advice Office; Department for Parliamentary Studies; Directorate-General for Parliamentary Support; Directorate-General for Administration and Computerised Services; Direction for the Services of Public and International Relations; and Museum.

THE SPANISH PARLIAMENTARY SYSTEM

Ignacio Astarloa Huarte-Mendicoa

The Spanish constitutional framework currently in force is shaped by the Constitution of 1978, drawn up by the first democratic Parliament to emerge from the elections of 15 June, 1977, after General Franco's authoritarian regime had ended.

Spain had already wide constitutional experience since its first text in 1812, developed throughout the 19th century and the first-third of the 20th century. However, if any feature is worthy of emphasis in the current Constitution in relation to other previous texts, it is its widespread acceptance by the Spanish people.

The 1978 Constitution establishes a social and democratic model of State of Law, based on respect for fundamental rights, structured as a parliamentary monarchy, with representation by way of political parties, and introducing a territorial-political distribution of power which involves original and subtle innovations as regards the traditional distinction between centralisation and federalism.

This last point is essential, because it involves the recognition of the existence, side by side with the State, of the so-called Autonomous communities—regions distinguished by historic, so-

cial, cultural and linguistic elements and equipped with power that is not merely administrative, but also political. They do not have their own sovereignty (as opposed to the Federal states in Federations), but thanks to a complex system involving the distribution of powers with the State, they have a high degree of self-government channelled through institutions which reproduce, to a certain extent, the State structure; a regional Parliament, chosen directly by the citizens of the Autonomous Community, and a regional Government of Parliamentary extraction

It does not seem indispensable at this point to refer to the other basic elements referred to at the beginning (fundamental rights, parliamentary monarchy). However, as we enter more fully into the parliamentary system, it will be necessary to point out some points of such elements.

On the other hand, it is essential to refer to the territorial structure of power, because a key element is deduced from it: legislative power, traditionally reserved to the national Parliament (with the exception of delegated legislation, or emergency legislation conferred on the Executive), is interrupted 'at the bottom': each regional Parliament, within the scope of the powers proper to the Autonomous Community and for its own territory, also possesses this same legislative power.

It should also be pointed out, to complete this framework, that this legislative power belonging to the Spanish Parliament is also interrupted 'at the top': the European Community, which Spain entered in 1986, is entitled to issue general rules which are directly applicable in our country, and binding on citizens and authorities, with no need for any transferral to internal laws.

The Parliamentary System

Article 1, paragraph 3, of the Spanish Constitution, provides that "the political form of the Spanish State is that of a parliamentary monarchy"; in article 2, it is said that "national sovereignty rests with the Spanish people, in whom the powers of the State have their origins."

Leaving aside the monarchical context—in Spain the saying according to which 'the King reigns but does not govern' would be perfectly applicable, at the basis of the Spanish Parliament,

called '*Cortes Generales*', is the people's sovereignty. For these representational purposes, this is channelled through the political parties, defined as the expression of political pluralism, and which contribute to the building and statement of the people's will and are a fundamental instrument for political participation (article 6 of the constitution).

The *Cortes Generales*, or Spanish Parliament, consists of two Houses; the Congress of Deputies (Lower House) and the Senate (Upper House), and their functions are the following: to wield the legislative power of the State, to pass the Budgets, to control Government activities and to fulfil those other tasks (for example, appointing authorities) incumbent on them according to the Constitution (article 66).

The Structure of the Spanish Parliament

The Spanish Parliament is bicameral, consisting of the Congress of Deputies and the Senate.

The Congress (article 68 of the Constitution) is currently made up of 350 members (the Constitution, which establishes a minimum of 300 and a maximum of 400 members, leaves the specification to electoral law). Members are elected in fifty multi-named constituencies corresponding to the provinces of Spain, by means of an amended system of proportional representation, with full closed lists, in which seats are assigned according to *d'Hondt's* rule. There are two elements amending the proportionality: in the first place, the parties or coalitions must attain the national electoral threshold of three per cent; secondly, each province has the right to a minimum of two seats, the remainder being distributed in proportion to the inhabitants. The only exception to the proportional rule are Ceuta and Melilla, which elect a single Deputy each, by simple majority.

The term of office of the Congress is four years, although it can be dissolved before the end of this term.

Any vacancies occurring between elections are covered by the next candidate on the list of the party in question.

The *Senate* is defined by the Constitution (article 69) as the Chamber of territorial representation. This condition has some limited effects on its structure and functions, as well shall see.

A person can become a Senator through two different channels. A large number of the present members of the Senate (208 from 255) are elected in provincial multinamed constituencies by a limited majority system: in most of the provinces (with the exception of the Islands and Ceuta and Melilla, which are allotted fewer seats), four Senators are elected, although each voter can vote for a maximum of three (there are no lists). This bypasses the possibility of all people elected belonging to the same party or coalition. Substitutes are elected at the same time as the Senators for covering possible vacancies.

Apart from the channel of direct universal suffrage, another way of becoming a member of the Senate is indirect suffrage. The Parliaments of the Autonomous Communities elect a certain number of Senators according to proportional representation criteria; each Autonomous Community is allowed one Senator and another for every million inhabitants in its respective territory.

The Senate has also a term of office lasting four years, and can also be dissolved before the end of the term. Although the Constitution does not bind it to the Congress, according to constitutional practice to date, both Houses have been dissolved and renewed simultaneously.

The internal organization of the Houses

Although the two Houses have different structures and powers, their internal organization is very similar, and therefore it would not be amiss to examine them together.

Before proceeding to this examination, we should give prior warning: parliamentarism in Spain today is party parliamentarism. This fact, for which the electoral system paves the way (particularly the system corresponding to the Congress represented by the closed list system), is reflected internally in the organization of parliamentary bodies and functions through the institution of political fractions or parliamentary groups.

It is therefore unnecessary to linger over the figure of the individual Deputy or Senator who, we might say in passing, enjoy the typical rights of word, question and amendment (restricted by their submission to the structure of parliamentary groups) and of the traditional prerogatives of inviolability and immunity.

The autonomy enjoyed by the Houses is regulatory (each of them freely decides on its Rules), organizational (they elect their executive bodies and define their structure) and administrative. We can establish a difference here between executive and functional bodies, after which, although they have not the status of parliamentary bodies, we shall refer to the parliamentary groups, since they are decisive in the organization of parliamentary work.

(a) **Executive bodies** in both Houses consist of the President, the Bureau and the Board of Spokesman.

The President is elected by the absolute majority by the members of the House in a first ballot or by simple majority in a second ballot. Although he forms part of the Bureau, he has also a series of duties of his own, apart from those of the Bureau. The most important of these consist in presiding over debates and interpreting the Rules of Procedure.

The Bureau is made up of the President, the Vice-Presidents (four in the Congress and two in the Senate) and the Secretaries (four in both Houses), all of them obviously members of Parliament. Amongst their functions are: to organize the work and the interior system of the House; to develop the House's draft budget; to manage the House's expenses and to classify documents and briefs as well as deciding on their implementation. Each member of the Bureau has a vote and matters are decided by majority.

While the nature of the Bureau is more institutional. The *Board of Spokesmen* is a specially political body, consisting of the Spokesmen of the parliamentary groups presided by the House President and with the presence, where necessary, of a Government representative. Its decisions are made by weighted vote of the Spokesmen of the Groups. Its main function consists in setting the agenda for the plenary sessions of the House. It is also

heard by the Bureau when making diverse decisions (for example, the sessions timing).

(b) Functional bodies of the Houses are the Plenary Sitting, the Standing Committee, the Committees and the Working Panels.

The Plenary Sitting co-incides with the House itself in discharging the duties assigned it by the Constitution, and it is therefore not necessary to enter into details.

The Standing Committee is a body which protects the powers of the House in periods of dissolution or when the latter is not assembled, that is, outside the ordinary sessions (these take place from September to December and from February to June). It is made up of a minimum of 21 members, distributed in proportion to the relative force of each parliamentary Group in the Chambers and presided over by its President. It is empowered to request the convening of a special session of the House; to validate the emergency legislation; to assume the duties of the House regarding states of alarm, emergency and siege and generally to protect the powers of the House.

The Committees are functional structures endowed with specialization criteria, made up of a small number of parliamentarians and presided over by a President and a Bureau. There are currently 40 members in the Congress and 25 in the Senate. There are basically three types of Committee; standing legislative committees (for example, Foreign Affairs, Defence, Budget), standing non-legislative committees (Rules, Petition) and non-permanent Committees (research and enquiry Committees erected for a specific matter).

The Committees discharge, on the one hand, preparatory functions for the activity of the Plenary Sitting, for example, in some cases of legislative procedure. However, they also have their own functions, as in the cases of full legislative power, which we shall subsequently examine, or in some areas of control.

In the Spanish system, as opposed to other parliamentary systems, the individual Panel Member does not exist, as yet, as an institution (although it is provided in the reform of the Con-

gress Rules of Procedure draft). *The Panels*, which prepare the work of the Committees on all the legislative procedures, are multi-person bodies with no management structure.

(c) **The parliamentary groups**, as we have already pointed out, are not House bodies. Nevertheless, in view of their direct influence on the functional organization of the latter, it is advisable to examine them at this point, albeit within certain limits.

The Deputies and the Senators are grouped together, according to political affiliation, in parliamentary Groups. In the Congress, a minimum of fifteen Deputies is required to form a Group (except for some special cases, when this minimum is lower). In the Senate, this minimum is lowered to ten. Those parliamentarians who are not members of any Group are included in the Mixed Group.

The parliamentary groups are present at all the essential activities:

- in the Standing Committee and the Committees, the number of parliamentarians is proportionate to the numerical force of the Groups;
- they are members of the Board of Spokesmen;
- they are empowered to request inquiry committees; to request plenary sessions; to request the urgent attention of matters in the order of the day or a change in the latter;
- the speakers' turns are organized by parliamentary groups.
- they can present amendments, approve those of individual parliamentarians and make special votes.
- they can present non-law interpellations and proposals (motion).

At present, the composition of the parliamentary Groups is as follows:

	Congress	Senate
Socialist Group	175	128
People's Group	107	92
CIU (Convergence and Union) Group	18	14
IU/IC (United Left/Catalonian Left) Group	17	—
CDS (Social Democratic Centre) Group	12	—
Basque Group	5	6
Mixed Group	16	15

The duties of the Spanish Parliament

As we have already pointed out, according to article 66 (2) of the Constitution : 'The Spanish Parliament wields the legislative power of the State, passes its budgets, controls Government action and holds all the other duties conferred on it in the Constitution'.

The general authority assigned in article 66 is subsequently adjusted by other provisions of the Constitution, in such a way that the system could be described as an 'imperfect bicameral system', as, with some exceptions, the most important functional care belongs to the Congress (Lower House).

To explain matters, we can make a distinction between the duties assigned to Parliament (pertaining therefore both to the Congress and to the Senate, although they can be discharged in joint or separate sessions), and those specifically incumbent on the Congress or the Senate.

Duties conferred on Parliament. Most of the duties jointly incumbent on both Houses are discharged in separate sessions. A relatively small care of such duties is discharged jointly. The former include :

(a) *The legislative power which, within Parliament, is discharged by both Houses* : both the Congress and the Senate have legislative initiative and both Houses participate in the constituent stage of the legislative procedure, although the prevalence lies with the Congress: in the case of a veto of legislative enactment introduced by the Senate, or of amendments proposed by the

Upper House, the Congress has the possibility of deciding by majority (qualified in the former case). It should be pointed out here that together with the ordinary legislative procedure, the possibility has been provided (with some limitations according to the subject) whereby the Committees can carry through Bills with full powers, without the need for their subsequent examination by the Plenary Sitting.

(b) The financial duties, as both Houses are obliged to examine, amend and approve the State Budgets, with a distribution of powers similar to that of the legislative power.

(c) *The duty involving Government control* : This duty, being a distinct function from the requirement of political responsibility, is a continuous activity exercised by Parliament either through joint bodies (for example, through the joint committees provided in article 76 (1) of the Constitution), or separately by each House, using the inquiry committees, the presence of members of the Government in full or committees, interpellations and questions.

(d) The duty involving the authorization of international treaties is the responsibility of both Houses and requires a majority from each of them for the authorization to be granted.

(e) The constitutional reform duty.

(f) The duty of appointing the Ombudsman.

(g) Other duties incumbent on both Houses but discharged in separate sessions are those referring to the authorization of co-operation agreements between Autonomous Communities and the distribution of the resources of the Interterritorial Compensation Fund. In these two cases (as opposed to other procedures) proceedings are begun in the Senate.

There are other duties, however, jointly assigned to Parliament and which must also be discharged in joint sessions by both Houses. This is the case of the non-legislative powers which Title II of the Constitution, concerning the Crown, confers on Parliament (article 74). The duties refer to the decision in the event of the extinction of the line of succession; the ban on marriage of persons with the right to succession; the disqualification of the King; the appointment of a Regent; the appointment of a tutor to the heir to the Crown; the swearing in of the King, the Regent and

the Crown prince; and the granting of authorization to the King to declare war and make peace.

Specific duties of each House. No collaboration between the Congress and the Senate is required for discharging such duties.

The Specific duties of the Congress are as follows :

(a) *With regard to the Government*, the Congress alone is responsible for validating the emergency legislation issued by the Government (article 86) and the vote of confidence of the President of the Government (article 99). The Government is jointly responsible to the Congress (not the Senate article 108), and it is therefore in this House that the question of confidence is dealt with (article 112) and it is this same House that can demand the political responsibility of the Government by means of a motion of censure (article 113). It is also incumbent on the Congress alone to file charges for any offence against the safety of the State or for treason against the President or the members of the Government (article 102).

On the other hand, the Congress has also special power to authorize the extension of the state of alert, to authorize the Government to declare the state of emergency and to declare the state of siege (article 116), and also to authorize the President of the Government to propose the holding of a people's referendum to the King.

(b) *With regard to other State bodies*, the Congress proposes ten members of the General Council of the Judiciary, four members of the Constitutional Court and six members of the Court of Auditors. It also has the responsibility of requesting the Constitutional Court to declare whether the Constitution should be reviewed before entering into a treaty if the latter contains provisions contrary to the Constitution.

(c) *With regard to the Autonomous communities*, it is responsible for making the first parliamentary examination of the drafts of the Autonomy Statutes, drawn up according to article 151 of the Constitution.

The specific duties of the Senate include

(a) *With regard to other State bodies*, it is the responsibility of the Senate (as of the Congress) to propose ten members of the General Council of the Judiciary, four members of the Constitutional Court and six members of the Court of Auditors. It is also responsible for requesting the Constitutional Court to declare whether a review of the Constitution is required before a treaty is entered into when the latter contains stipulations contrary to the Constitution.

(b) With regard to the Autonomous Communities, the approval of the Senate is required (article 155), by absolute majority, for the Government to adopt any measures necessary for obliging an Autonomous Community to fulfil compulsorily the obligations imposed on it by the Constitution or by law.

THE PARLIAMENTARY SYSTEM OF GOVERNMENT IN SRI LANKA

S. N. Seneviratne

Although institutions of a democratic nature have existed in Sri Lanka from ancient times, the West-minster type of Parliamentary Government was introduced in the country in 1948 after independence from British rule was achieved. The post-independence Soulbury Constitution of 1948 provided for a Legislature comprising the Governor-General and two Houses—the House of Representatives and the Senate. In 1972, Sri Lanka was declared a Republic. The Republican Constitution of 1972, while retaining the Cabinet form of Government, provided for a unicameral Legislature called the Nation State Assembly and a nominated President. The present Constitution, which came into operation in September 1978, has created a Presidential system of Government within a parliamentary framework.

The current Parliament of Sri Lanka, which is also the Second Parliament under the new Constitution, consists of 225 members. This is composed of 29 members selected from the Na-

tional List and 196 members elected on the proportional system of representation which has been written into 1978 Constitution and marks a significant departure from the earlier first-past-the-post system of election.

Parliament is elected for a period of six years but may be dissolved earlier by the President. The life of Parliament is divided into Sessions, each usually lasting one year. At the opening of each Session, The President's Statement of Government Policy to Parliament outlines the government's broad policies and proposed legislative programmes. Each Session is terminated by prorogation. On the dissolution of Parliament, the President must summon a new Parliament to meet within three months and fix a date for election.

In the Republic of Sri Lanka, sovereignty is in the people and is inalienable. Sovereignty includes the powers of government, fundamental rights and the franchise. Parliament and President who together exercise the people's sovereignty are the supreme instruments of state power. Parliament exercises the legislative and judicial powers of the people, and the President the executive power. The judicial power, however, has to be exercised by Parliament through courts, tribunals and institutions established by the Constitution and by law. In the discharge of its functions, Parliament and its members are fortified by certain privileges, immunities and powers relating to which Parliament may exercise the judicial power directly according to law and punish any person who commits a breach of privilege.

Fundamental rights, the other component of the people's sovereignty, are recognized by and enshrined in the Constitution and "shall be respected, secured and advanced by all the organs of government." Fundamental rights include freedom of thought, conscience and religion, freedom from torture, the right to equality, freedom from arbitrary arrest, penal legislation, freedom of speech, assembly, association occupation and movement. In the event of any infringement or the imminent infringement of any such fundamental right by executive or administrative action, persons have recourse to the Supreme Court which has the sole and exclusive jurisdiction to hear and determine any question relating to such infringement of fundamental rights.

The franchise is exercised by the people at the election of the President, and of the member of Parliament and at every Referendum. All citizens above the age of 18 years, unless subject to disqualification under the election law are entitled to exercise the vote at all elections.

Sri Lanka has experienced representative democracy since 1833 and enjoyed Universal Suffrage since 1931. More than half a century of the exercise of the right of Universal Franchise has imbued in our people a keen political awareness and has educated them in the process of the Working of a Parliament democracy. Twelve Elections have been held since the grant of Independence, and on six occasions the electorate has turned out an incumbent government from office. It is worthy to note here that with every General Election, the percentage of people actually voting has increased, starting with 55.8% in 1947 to a record of 86.7% in 1977, with the exception of 1989 election making it almost a record amongst modern day democracies.

As the supreme legislative authority in the country, Parliament has power to make laws, including laws repealing or amending any provisions of the Constitution or adding any provisions to the Constitution. Laws pertaining to the Constitution have to be passed by a majority of two thirds of the whole number of members of Parliament including those not present. The amendment of certain Articles of the Constitution, however, must receive the approval of the people at a Referendum. Parliament cannot make any law suspending the operation of the Constitution or any part thereof of repealing the Constitution as a whole, unless such law also enacts a new Constitution to replace it.

The Constitution also lays down the Directive Principles of State Policy to guide Parliament, the President and the Cabinet of Ministers to govern and enact laws for the establishment of a free and just society in Sri Lanka. By these principles the State is pledged to establish a democratic, socialist society that will ensure the full realization of the fundamental rights and freedoms of its people and the promotion of social security and welfare by a social order in which social, economic and political justice will guide all the institutions of national life. The objectives of a just society also include an adequate standard of living of its citizens.

the rapid development of the country by public and private economic activity and by laws as may be expedient to direct and control such activity and by equitable distribution among its citizens of the material resources of the country. The State, in terms of the Directive Principles of State Policy, shall also raise the moral and cultural standards of the people, completely eradicate illiteracy and assure to persons the right to universal and equal access to education at all levels, and thus ensure the full development of human personality. The State also undertakes to strengthen national unity and broaden democratic government through decentralized administration which will afford opportunity to the people to participate in national life and Government and pledges to eliminate social and economic privilege and disparity and the exploitation of man by man and by the State. All communities, whether they belong to the majority or a minority, are safeguarded by the right to equality and to equality of opportunity. This guarantees that none shall suffer disability or discrimination on grounds of race, religion, language, caste, sex, place of birth, occupation or political opinion.

Parliament cannot abdicate or in any manner alienate its legislative power and cannot set up any other authority with real legislative power. Parliament could make any law relating to public security incorporating provisions empowering the President to make emergency regulations in accordance with such law. Such regulations are brought into operation by a Proclamation which can operate only for a period of one month and should be approved by a resolution of Parliament within 14 days of its coming into operation.

No court or tribunal can question on any ground the validity of legislation enacted by Parliament. However, before the enactment of such legislation, the constitutional jurisdiction of the Supreme Court could be invoked by any citizen by special procedure to examine the validity of such proposed legislation and its consistency with the Constitution.

Another principal function of Parliament is to scrutinize Government policy and administration, particularly proposals for raising revenue and for expenditure. Parliament has full control over public finance and Parliament alone authorizes taxes and

duties to be levied and the various objects of expenditure and the sums to be spent on each. No payment out of the Government's Consolidated Fund can be made, no taxation, charges or loans can be authorised except by Act of Parliament. Certain payments which has to be reimbursed can be made within limits from the Contingencies Fund which itself has been created by Parliament.

The financial year of the Government is the twelve month period beginning on 1 January, and ending on 31 December. The Appropriation Bill and the Estimates of Income and Expenditure for the financial year are termed the Budget. The Budget speech by the Minister of Finance takes place when the Appropriation Bill is taken up for Second Reading. The debate at this stage is confined to the general merits and principles of the Bill and the Budget proposals. After the passing of the Second Reading, the Appropriation Bill is referred to the Committee of the whole Parliament, when each item is taken up for detailed discussion. The programme for the committee stage of the Budget is prepared by the leader of the Opposition in consultation with the Ministers.

After the Committee stage discussion is concluded the Bill is read a Third time and passed. When the Bill is certified by the Speaker, it becomes the Appropriation Act for the ensuing year.

Any treaty or agreement between the Government of Sri Lanka and the Government of any foreign state has the force of law in Sri Lanka when Parliament approves these by resolution passed by a two-thirds majority as being essential for the development of the national economy.

The Cabinet of Ministers is charged with the direction and control of the Government and is collectively responsible and answerable to Parliament. It is the supreme policy making body and the source of the greater part of the legislation and financial proposals that come before Parliament. The approval of these is ensured through the majority the Government commands in Parliament. The President is the head of the Cabinet and the Constitution requires him to appoint the Prime Minister and the Ministers from among the members of Parliament. He is responsible to Parliament for the due exercise, performance and discharge of his powers, duties and functions. The statement of Government policy at the commencement of each Session of Par-

liament is made by the President. He presides at the ceremonial Sittings of Parliament and has the right at any time to attend, address and send messages to Parliament. The Constitution and provides for the President to appoint Ministers who are not members of the Cabinet and these Ministers too have to be selected from among members of Parliament. All Ministers cease to hold office if they lose membership of Parliament.

The Speaker is the representative and spokesman of Parliament in its collective capacity. He presides over sittings of Parliament and he interprets and enforces its Standing Orders. In his absence the Deputy Speaker or in their absence the Deputy Chairman of Committees presides over sittings of Parliament and performs the functions of the Speaker.

At the head of the permanent official staff of Parliament is the Secretary-General of Parliament, appointed by the President. The members of his staff are appointed by him with the approval of the Speaker.

The party system is a vital component of parliamentary democracy and the organization of the political parties, represented in Parliament, as Government and Opposition helps to ensure that all aspects and view points of matters placed before Parliament are duly considered before any decision is taken. The Government Group is organized under the Leaders of the House and the Chief Government Whip. The leader of the party in the Opposition with the largest number of Members is recognized as the Leader of the Opposition. It also has its Chief Whip. The Leader of the Opposition is accorded the status and given the emoluments of a Cabinet Minister and provided with a separate staff, office accommodation, official residence and car. The other parties in the Opposition may at their discretion, come under the Whip of the Opposition.

The detailed arrangement of Government business and the allocation of time for debate is decided at meetings of the Committee on Parliamentary Business. It consists of the Speaker as Chairman, the Deputy Speaker, the Deputy Chairman of Committees, the Leader of the House, the Leader of the Opposition, the Chief Government Whip, the Chief Opposition Whip and the Leaders of the other parties.

The Sri Lankan Parliament has a strong and active Committee system comprising Legislative Standing Committees, Select Committees and Committees for Special purposes such as the Committee of Selection and the Committees on Standing Orders, on Public Accounts, on Parliamentary Business, on Privileges, on Public Enterprises and on Public Petitions.

The Committee on Public Accounts, consisting of 12 members of Parliament chosen from all parties, is appointed at the commencement of every Session of Parliament to examine the accounts showing appropriation of the sums granted by Parliament to meet public expenditure along with the report of the Auditor General thereon. It is also the duty of his Committee to report to Parliament on the accounts examined, the finances, financial procedure, performance and management generally of any department, local authority and on any matters arising therefrom. This Committee is invested with the power to summon before it and question any person and call for and examine any papers, books, records or other documents and to have access to stores and property. During the First Session and the on going Second Session of the Second Parliament, the Committee had 157 sittings and has presented 4 reports to Parliament suggesting ways and means of improving parliamentary control over public finance and to improve the administration of public finances. During the previous Sessions of the First Parliament, it carried out an in-depth study into the "inequitable distribution of education facilities in the districts of the Island." The Committee is assisted in its work by the officials of the General Treasury and the Auditor-General.

The Committee on Public Enterprises, which consists of twelve members of Parliament, is appointed by Parliament to look into the accounts, performance, etc. of Public Corporations, Statutory Bodies and Government Business Undertakings. The Committee's main functions are two-fold. It examines the Accounts of Public Enterprises in relation to the Reports of the Auditor-General with the assistance of the Auditor-General. It also reviews the past and present performance of the Public Enterprises with the assistance of the Director, Public Enterprises Division of the General Treasury. For this purpose, the Committee conducts on an

average 70-80 Meetings per year. At present, there are about 190 Public Enterprises in Sri Lanka and the Committee has presented two Reports to Parliament with its observations and recommendations during the 1st and ongoing 2nd Session of the Second Parliament.

Parliament has also provided by law for the establishment of the Office of the Parliamentary Commissioner for Administration (Ombudsman), empowered with the duty of investigating complaints and allegations of the infringement of fundamental rights and other injustices of mal-administration, when asked to do so by the Public Petitions Committee of Parliament, to which petitions presented by members of Parliament on behalf of members of the public are referred. The Ombudsman's powers of investigation extend to administrative actions by Central Government and Local Government departments and Corporations. He has access to departmental papers and reports the findings to Parliament. He is appointed by the President.

The Committee on Public Petitions has assumed a great degree of importance after the creation of the office of Parliamentary Commissioner for Administration because all matters going before the Parliamentary Commissioner have to be referred to him by the Public Petitions Committee. Grievances of citizens are presented by members in the form of Petitions to Parliament which, if approved by the Speaker as conforming to Standing Orders, are referred to the Public Petitions Committee. If the matter falls within the jurisdiction of the Parliamentary Commissioner, Public Petitions Committee refers the petition to him. In other cases, the Committee itself will inquire into the petitions for which purpose it has been given powers to summon and question any person and call for any papers and documents and to have access to stores and property. Since the Ombudsman started functioning there has been a great increase in the number of petitions presented to Parliament.

The privileges and immunities of the members of Parliament have been embodied in the Parliament (Powers and Privileges) Act. Apart from specifying the offences which are termed breaches of privilege, this Act declares and defines the privileges and immunities of the Parliament and its members. These privi-

leges and immunities are the rights enjoyed by the Parliament and its members without which they could not properly discharge their functions. All question of privilege have to be first discussed with the Speaker in his Chamber and then raised in the House. If the Speaker is satisfied that there is a *prima facie* case, he would advise that the matter be referred to the Committee on Privileges. The practice in such cases has been for the Leader of the House to move a Motion referring the matter to the Committee on Privileges. Although the Parliament as a body can hear evidence and decide on matters of privilege, the practice has been to refer such matters to the Committee on Privileges. When such a matter is referred to it, the Committee is expected to report to Parliament whether a breach of privilege has been committed with reference to the facts of each case and to make recommendations regarding what should be done. When the Committee reports to Parliament, Parliament will decide on the course of action that should be taken. In nearly every case hitherto, the recommendations of the Committee have been accepted by Parliament.

There is also a system of Consultative Committees, the number of these corresponding to the number of Ministries in the Cabinet. The Chairman of a Consultative Committee is the Minister in charge of the subjects and functions which the Committee has been empowered to consider. Each Consultative Committee reflects as far as possible the party composition in Parliament. Parliament or the Minister who is the Chairman of the Committee can refer to it any matters for inquiry and report, including proposals for legislation, supplementary or other estimates, statements of expenditure, motions, annual reports and papers. A Consultative Committee has also the power to initiate a bill or motion through the Chairman. It also provides members with a popular means of raising matters pertaining to their electorates.

These Committees of Parliament have been invested with the power of summoning to appear before it, Secretaries to Ministries, senior public servants and other officials. If necessary, members of Parliament too could be summoned to give evidence. Through hearings and published reports, they bring before Parliament and the Public an array of facts and informed opinion on many important issues. A valuable opportunity is afforded for a searching examination of Government policy to both the Government's own

back-benchers and the Opposition.

Apart from the passing of laws, an important function of Parliament is to provide a forum for members to raise matters of public importance, to discuss Government policy and to ventilate grievances of the public. The floor of the House is available to members for this purpose during debate on legislative proposals and other Motions. Also available to this end is the facility of asking questions for oral or written answer and the one hour set apart on sitting days for the debate on the Adjournment Motions.

The Standing Orders of Parliament provide for members to perform their duties and discharge their functions in Sinhala or Tamil which are the national languages of Sri Lanka. They are also entitled to the use of English in Parliament. All laws and subordinate legislation are enacted and published in both Sinhala and Tamil with a translation in English. Any speech made in Parliament is recorded in the Official Report of Parliamentary Debates (Hansard) in the language in which it was spoken.

THE THAI SENATE

Pinit Arayasiri

The parliamentary system was introduced in Thailand for the first time on 24 June, 1932, when a constitutional monarchy replaced the absolute rule of the Kings. It functions as the national legislative institution as in other democratic governments.

The National Assembly

According to the present Constitution of the Kingdom of Thailand, promulgated on 9 December, 1991, the National Assembly is the supreme legislative authority in Thailand. It consists of two Houses, the Senate and the House of Representatives. Joint and separate sittings of the National Assembly shall be in accordance with the provisions of the Constitution. At present, there are 630 Members of Parliament in the National Assembly : 270 Senators and 360 Members of the House of Representatives.

Composition of the Senate

The Senate is composed of 270 Senators to be appointed by the King from qualified persons possessing knowledge and experience in various branches of learning or affairs which will be useful to the administration of the state in the democratic regime

of government with the King as Head of State; of Thai nationality by birth; not less than thirty-five years of age; not a member or holding any position in any political party; not a member of local assembly or local administrator, holding such position by means of election; not having been terminated as member by a resolution of the Senate or the House of Representatives and not having been terminated as member by a resolution of the Constitutional Tribunal.

Term of Office

The membership of the Senate is six years from the date of appointment by the King. On the completion of three years from the date of the first appointment by the King, one-half of the total number of Senators shall retire by drawing lots and shall be regarded as retired at the expiration of term of office and the King shall appoint new Senators equal in number. On the completion of six years the Senators who remain in office after drawing lots shall retire, and the appointment of Senators equal in number to the number of Senators which is retired shall be made every three years.

Any member who retires may, upon the Royal prerogative, be re-appointed.

Termination of office

Membership of a Senator terminates upon

- (i) the expiration of term of office;
- (ii) death;
- (iii) resignation;
- (iv) loss of Thai nationality;
- (v) becoming a member or holding any position or association of any political party;
- (vi) becoming member of local assembly or local administrator, assuming such position by means of election.
- (vii) disfranchisement, such as being addicted to harmful habit forming drugs; being an undischarged bankrupt;

having been sentenced or ordered by the Court that his assets devolves on the State owing to his unusual wealth or his assets has become usually accumulative, etc.

- (viii) receiving any concession from the State or government agencies or State agency or State enterprise, or becoming a party to the contract on the nature of economic monopoly with the State or a government agency or state agency or State enterprise; whether directly or indirectly except he has received by concession or has become a party to the contract thereof before;
- (ix) the Senate passing a resolution terminating the membership or the Constitutional Tribunal passing a resolution terminating the membership;
- (x) having been absent throughout a session which is not less than ninety days without the permission of the President of the Senate ; and
- (xi) having been imprisoned by a final judgment to a term of imprisonment except for an offence committed through negligence or for a petty offence.

Functions of the Senate

The major function of the Senate is to act as a house of review. With the responsibility of expressing second opinions in relation to legislative and other proposals initiated in the House of Representatives, and to control the administration of the State Affairs. The control of the administration of the State Affairs has been a feature of the Senate's interpellation. At a sitting of the Senate, every Senator has the right to interpellate a Minister on any matter within the scope of his authority, but the Minister has the right to decline to answer if the Council of Ministers is of opinion that the matter should not yet be disclosed on the ground of safety or vital interest of the State.

The Consideration of the Bill in the Senate

The National Assembly has power to enact laws and approve Emergency Decree as well as amend or repeal existing laws. All bills may be enacted as law only by and with the advice and consent of the National Assembly. In the Thai democratic parlia-

mentary system, the Senate has no power to introduce any bill. All bills may be introduced only by the Council of Ministers or members of the House of Representatives and they shall be first submitted to the House of Representatives. The Senate can, however, at any stage return to the House of Representatives any of the Bills which it cannot amend and request the omission or amendment of any item or provision.

As the Senate is the legislative institution whose duty is to examine carefully the bill received from the House of Representatives, the present Constitution has prescribed the period of consideration of the bill of the Senate in particular; that is, the Senate must finish the consideration of the bill within sixty days. If it is a money bill, the consideration thereof must be finished within thirty days; provided that the Senate may resolve to extend the period as a special case which shall not be over thirty days. The said period shall mean the period during a session and shall be counted from the day on which such bill reached the Senate. If the Senate has not finished the consideration of the bill within the such period, it shall be deemed that the Senate has approved such bill.

The stages of the Senate consideration of bills are identical to those of the House, that is, the Senate shall consider the bill in three readings as follows:

- First reading : The Senate shall consider the resolve whether to accept or reject the principle of such bill.
- Second reading : The consideration of the bill at this reading shall be done by the Committee appointed by the Senate or the Committee of the Whole House. The stage of consideration, the amendment and the consideration of the bill which has been already done by the Committee has the same making as in the consideration of the bill by the House of Representatives.
- Third reading : The sitting shall resolve whether to agree with the House of Representatives or not.

If the bill is amended at the second reading, the Sitting shall resolve whether or not to amend the bill. For this purpose, the resolution to amend the bill shall mean to amend the bill as considered at the second reading, and the resolution not to amend the bill shall mean that the Senate agrees with the House of Representatives without any amendment.

If the Senate disagrees with the House of Representatives in the first or in the third reading, such bill shall be withheld and returned to the House of Representatives. The House may reconsider it only after the lapse of 180 days from the date the bill is returned to the House by the Senate. If the bill withheld is a money bill it will proceed to be reconsidered instantly by the House. If the House of Representatives resolves to reaffirm the votes of more than one-half of the total number of members of the House, such bill shall be deemed to have been approved by the National Assembly. After that, the Prime Minister shall present it to the King for signature and it shall come into force upon its publication in the Government Gazette.

If there is an amendment of the bill which is approved by the House, the amended bill shall be returned to the House. If the House considers that it is a minor amendment and agrees with the amended bill, such bill shall be deemed to have been agreed by the National Assembly. In other cases, House shall appoint its member or other person in equal number as may be fixed by the House to constitute a Joint Committee for consideration of the bill. The Committee shall prepare a report thereon and submit the bill which it has already considered to both Houses. If both Houses approve the bill considered by the Joint Committee, the Prime Minister shall present it to the King for signature and it shall come into force upon its publication in the Government Gazette. If either House disapproves the bill, such bill shall be withheld. The House may reconsider such bill only after the lapse of 180 days from the date that either House disagrees with the bill. If the bill withheld is a money bill, the House can reconsider it immediately.

If the House resolves to re-affirm the original bill or the bill considered by the Joint Committee by the votes of more than one-half of the total number of members of the House, such bill shall be deemed to have been approved by the National Assembly and then the Prime Minister shall present it to the King for signature and it shall come into force upon its publication in the Government Gazette.

Any bill that the King refuses His assent to and either returns to the National Assembly or does not return within ninety days, the National Assembly must re-deliberate such bill. If the National Assembly resolves to reaffirm the bill with the votes of not less than two-thirds of the total number of members of both Houses, the Prime Minister shall present such bill to the King for signature once again. If the King does not sign and return the bill within thirty days, the Prime Minister shall cause the bill to be promulgated as an Act in the Government Gazette as if the King had signed it.

THE UNITED STATES SENATE ARCHIVES**Walter J. Stewart**

On 29, September, 1789, the first Senate to meet under the newly adopted Constitution of the United States completed a precedent-setting 210-day session. The Congress, of which that Senate was a vital part, firmly established its preeminence among the three separate, but inter dependent, branches of the national government, creating executive departments and a national judiciary. In addition, the Senate, in less than six months, vigorously breathed life into the constitutional powers, it shared with the President to approve key executive appointments and ratify treaties with foreign governments.

When the twenty-two members of that first Senate parked their bags and left their temporary New York City for a three-month recess, they entrusted their legislative records to Secretary of the Senate Samuel A. Otis. Over the following twenty-five years, Otis faithfully preserved the burgeoning product of the Senate's legislative activity. So well established were his practices that several months after his death in 1814, when British troops invaded Washington and set fire to the newly constructed Capital, aides in the Secretary's office commandeered a wagon and quickly spirited those essential files to the safety of the Virginia country-

side.

Over the past two centuries, the twenty-four successors to Samuel Otis have taken their record keeping responsibilities very seriously, and today the United States Senate maintains an active archival programme. By law, the Secretary of the Senate is responsible for administering the Senate's programme to preserve its official public records. These include records of debates and floor proceedings, administrative records, and committee materials, which are transferred to the Center for Legislative Archives at the National Archives, where they are made available to the public for research. The Secretary also provides records management and disposition advice to individual Senators who elect to create a personal archive by donating their papers to a research institution of their choice.

Recently, the Senate has adopted several new initiatives to address various challenges posed by the changing nature of its archival documentation. This article describes the basic elements of the Senate's programme in the hope that that archival administrators of democratic legislative and parliamentary records may find our experiences useful.

Background

The U.S. Congress is made up of the Senate and House of Representatives. Most of this article focuses on the records management programmes of the Senate, but the work of the Congressional Documentation Project and the Center for Legislative Archives at the National Archives deal with the records of both Houses.

Senate records include those of individual Senators, which are their property and are often deposited at university libraries or other repositories, and records of Committees, which remain the property of Congress and are part of the Senate's official records deposited at the National Archives. The modern era of Senate records management began during World War II, when the scope of congressional authority necessarily broadened along with the expansion of federal government programmes. After the war, the Legislative Reorganization Act of 1946 required, for the first time, that all congressional Committees maintain formal records of their

proceedings, thus creating a new category of archival material that has continued to grow in volume and importance. Additionally, the act required that Senators' personal staffs and records remain separate from the Committee staffs and records; it also gave the Secretary of the Senate greater authority over all Committee records. The act stated:

The Secretary of the Senate and the Clerk of the House of Representatives, acting jointly, shall obtain at the close of each Congress, all the non-current records of the Congress and of each congressional Committee and transfer them to the national Archives for preservation, subject to the orders of the Senate or the House of Representatives, respectively (60 Stat. 812).

The early 1970s saw a number of changes that substantially altered the nature of Senate recordkeeping. It had become apparent that the volume and scope of the Senate's archival holdings had increased substantially and were continuing to grow at a rapid rate. The nature of the documentation also began to diversify. What once had been an archive primarily based on textual materials now included a variety of record formats, as the communications revolution contributed to the acquisition of audiotape, microfilm, videotape, and, finally, a variety of computer-based media. As the number of Senate sub-committees and staff members multiplied in response to an increasing workload, it became necessary to further systematize Senate archival practices.

Because the United States operates under a two-party system, many congressional operations are divided between those of the majority party in each house, which organized and leads that house, and the minority party. In 1977, the Senate passed a resolution (S. Res. 4, 95th Congress) that substantially increased the number of minority staff members on Committees, thus creating two distinct bodies of archival records, majority and minority, documenting the Democratic and Republican parties' positions on issues.

The Senate's Archival Program

By 1980, the senate's records looked very different from

the material of only forty years earlier. Records management within each Senator's office became more complex as the old system of central subject files gave way to a variety of files maintained individually by Committee staff and Senators' personal staff, each telling only a part of the legislative story. With the revolution in copying technology and tele-communications, the paper records grew increasingly voluminous. Many records began to appear in non-paper formats—photographic negatives, microfilm, computer disks and tape, and audio and video tape—some of which were extremely fragile.

To address this situation, the Senate Historical Office, established in 1975, under the Secretary of the Senate's jurisdiction, to preserve the institution's history, added a professional archivist to its staff in 1982.¹ The office had sponsored a conference in 1978 to evaluate the research value of Senators' papers. One of the major recommendations from that conference was to improve the management of the Senate's records, especially those residing in Senators' office.²

As a result, the archivist was charged with developing a comprehensive programme to identify and preserve the Senate's historical records. The first task involved compiling guidelines for the retention of Senators' papers. These materials are collected in the member's personal offices in Washington and in the home state and document the Senator's role in originating and moving legislation, representing his or her constituents, communicating with constituents and colleagues, and participating in political activities. When combined with the official records of the Senate, Senators' papers provide the most detailed and accurate documentation of the legislative process. Disposition guidelines for such material are reproduced in the *Records Management Handbook for United States Senators and Their Archival Repositories*.³ This volume adopts contemporary management techniques to address the unique problems of Senators' offices. It includes a working definition of the term "Senators' papers" and a discussion of office staffing, organization, functions, and recordkeeping practices. It also includes a chapter on the use of computers in the Senate and offers management guidelines for retaining information maintained on them. Another chapter provides information about the preservation of fragile media. Finally, the definitions,

concepts, and terminology embodied in the volume represent an attempt to promote a consensus among archivists who work with congressional collections. The increase in national bibliographic data bases and surveys has enabled archivists to share both information about congressional archival sources and the appraisal decisions made about them. As a result, it becomes increasingly important to develop a common understanding of the essential nature of congressional records and the way they are generated. The common concepts and terminology serve as a reference point for archivists who create collection guides and share descriptive information via these national networks.

The next major effort was the development of guidelines for the official records of the Senate. *Records Disposition Procedures for the Offices of the Secretary of the Senate*⁴ provides guidelines for documentation of floor proceedings and Senate administrative records. Because the Legislative Reorganization Act of 1946 defines Committee records very broadly, it was necessary to draft a working definition based on the functional activities that the Committees perform. That definition, information management guidelines, and records disposition procedures are reproduced in the *Records Management Handbook for United States Senate Committees*.⁵ Committee records document the Senate's activities in considering legislation, overseeing the performance of government agencies, conducting investigations, and reviewing nominations and treaties. Such records constitute the heart of the Senate's archival holdings. Because the key to preserving valuable policy documentation lies in the ability of staff effectively to identify and maintain that documentation. A series of records management seminars and staff briefings was developed to supplement the written guidelines.

Concurrently with the Senate's efforts to improve the management of its archival program, Congress acted to strengthen the Center for Legislative Archives within the National Archives. (The Senate transfers physical custody of its records to the National Archives for preservation and reference services, while retaining legal ownership.) Congress provided the Center with the resources both to strengthen its staff and to produce a comprehensive *Guide to the Records of the United States Senate at the National*

*Archives, 1789-1989.*⁶

Congress then established a permanent National Advised Committee, as a continuing source of guidance in the development of the Center. This Committee, composed of the Secretary of the Senate and the Clerk of the House, along with nationally prominent historians, political scientists, and archivists, meets twice a year to advise Congress and the Archivist of the United States on the management and presentation of the records of Congress. The Committee has produced the *Advisory Committee on the Records of Congress, First Report December 31, 1991*⁷, which outlines a five-year development plan for the records of Congress at the Center. The report also highlights goals in preservation of electronic records, collections development, and improved reference services, as well as urging the establishment of programs to encourage private-sector funding for educational activities, such as exhibits, teacher-training institutes, and documentary publications.

In 1989, as part of its bicentennial commemoration, Congress sponsored a conference on the topic of *Understanding Congress: Research Perspectives*⁸ that focused on the multidisciplinary nature of congressional research. The conference participants differed in their assessment of the state of research on Congress but generally agreed on the need to improve knowledge of the national legislature. Setting the theme for the conference, historian David McCullough, in his essay "Time and History on the Hill," stated that "we need to know more about Congress because we need to know more about leadership. We need to know more about congress because we can never know enough about human nature. Above all, we need to know more about Congress because we are Americans. We believe in governing ourselves."

Inspired by the speech, the archivists present determined to study ways to improve the research value and accessibility of archival information about Congress. They noted that, compared to the wealth of information available about the presidency, the documentation of Congress was fragmented and difficult to use. While the official records remain in Washington, DC, each Senator sends his or her office records back to a designated library or archives in the home state, thus splitting the most significant

documentation of Congress between official congressional sources and private sources.

In addition, substantial published primary sources available in Federal Depository Libraries and commercial data bases provide access to information ranging from the House and Senate debates published in the *Congressional Record* to analyses of voting records. There are also relevant archival sources—such as those possessed by outside organizations that lobby Congress—that are not deposited in any research institution. Finally, the archivists perceived a widespread lack of understanding among congressional archivists about the nature and value of these scattered materials and how they fit together to form a complete documentary record.

The Congressional Documentation Project

To address these concerns, the Senate Archivist co-ordinated the development of a congressional documentation project with archivists from repositories that specialize in congressional collections. This group formed a research team to investigate five major areas of congressional activities: legislation, representation, political activities, external relations, and administration/support. The team identified sources of information on each activity and then evaluated them for their value as documentary sources, their preservation status, and their availability for research use. Finally, the group made specific recommendations for projects and managerial initiatives that would improve the availability of the Primary resources of Congress.

The resulting report, *The Documentation of Congress: Report of the Congressional Archivists' Roundtable Task Force on Documentation*,⁹ is a true "action document." It provides a framework and rationale for establishing collections development and preservation goals by those who share responsibility for and interest in the history of Congress, public policy and democratic government. The recommendations are addressed to one or more of the three major authorities responsible for maintaining and preserving the documentation of the legislative branch: members and officials of Congress, the National Archives, and repositories of congressional papers throughout the nation. The documentary analysis and recommendations present a comprehensive, co-ordinated approach

that builds upon the specific interests and responsibilities of these three groups.

Major Findings

The report lists six major findings, based on a comprehensive evaluation of the status of relevant sources of congressional archival information:

First, while congressional Committees and the activities of individual members generally are well documented, the quality of information in these sources varies significantly. Such variations can be caused by uneven administration of collections in Washington, lack of planning, or lack of sufficient resources at some state repositories. The report stresses the need to strengthen the identification and preservation of records of enduring value in congressional Committees and in members' offices.

Second, of the five congressional support agencies that are included in the legislative branch of the government, only one, the General Accounting Office, has a comprehensive, though uneven, records management programme. While two agencies, the Office of Technology Assessment and the Government Printing Office, have partial programmes, two others, the Congressional Research Service and the Congressional Budget Office, have none. Despite the fact that these agencies provide vital information and services to Congress and play major roles in developing legislation, conducting investigations, and ensuring oversight, there exists no coordinated information retention plan that meets the long-term needs of Congress and that helps to complete the historical record of the legislative branch.

Third, records of the executive and judicial branches that document Congress are either under very good control, as in the instance of the eleven presidential libraries, or are on the way to substantial improvements. For example, there are currently new historical and archival initiatives aimed at improving the preservation of the official records of the courts and the personal papers of judges. Most of these records are outside the direct responsibility of Congress but are collection and preservation interests of one or both of the other major authorities: the Center for Legislative Archives and specialized repositories in the states.

Fourth, other sources enjoy varying degrees of archival management and accessibility. They include the records of the various campaign committees—of the national parties, of both parties in the House and Senate, and of individual members of Congress; the Republican and Democratic party conferences in the House and Senate; and the less official congressional member organizations and caucuses. To these must be added the significant “outside” groups that interact with Congress in an integral way—the Capital Hill press corps, the lobbyists, and the “think tanks,” or public policy research centers. All are linked inextricably with the history of legislation, politics, and government. Yet they have been largely overlooked by the major congressional archival repositories as important documentary sources.

Fifth, individuals who use congressional find them to be the most valuable source of information for biographical and public policy studies, but many of the collections are difficult to use. For example, academic reserachers seek improvements in access thorough standardization of access terms, better indexing, more detailed descriptions, standardization of finding aids, and microfilm publication of important sequences so that scholars may obtain them through inter library loan. In this regard, the development of congressional research centers, including the Center for Legislative Archives, also is to be encouraged.

Finally, many important collections remain unprocessed due to lack of resources on the part of the archival repository. While many members of Congress assume responsibility for processing their collections in Washington, DC, many more members need to add professional archival expertise to their staffs. Given the quantity of material that accumulates in offices, continous identification and selection of archival materials is the only cost-effective way to ensure that information of long-term value will be preserved.

Summary of Recommendations

The extensive scope of the report's recommendations is revealed in a brief review of the subject areas covered:

—The rearch value of legislative documentation. This material relates to the development and passage of laws, the over-

sight of government agency programmes by Committees, the Senate's review of executive nominations and treaties, and the conduct of impeachment proceedings.

—The task of representing one's constituents. This role leads to the accumulation of massive volumes of constituent mail and casework. Recommendations are aimed at ensuring the preservation of significant information while disposing of transitory material on a regular basis.

—Records of the congressional leadership, member organizations, and political activities. These materials are among the most frequently sought and used by scholars yet among the most difficult to collect and preserve. Often politically sensitive and created in a fluid environment, such records may be useful to the serving member over a relatively long period of time and are subject to no firm rules governing their ownership and disposition. Recommendations are designed to preserve records of candidate recruitment and campaigns, of losing candidates and minor parties, of political consultants and advertising firms, and of political parties.

—The management and documentation of administrative and support functions. The most significant of these relate to the records of Congress' support agencies—the Congressional Budget Office, the Congressional Research Service, the General Accounting Office, the Office of Technology Assessment, and the Government Printing Office. The recommendations stress the need to establish strong records management programs in the agencies that currently do not have any, including the need to survey the holdings and develop comprehensive records schedules. Because it takes, on an average, six years for major legislation to move from initial introduction to final enactment, certain congressional working files must be retained longer than executive branch documents. The Center for Legislative Archives needs to encourage the preservation and donation of the personal papers of past directors of these agencies, which are not now routinely being appraised and preserved.

—The external relations of Congress. The report evaluates and suggests improvements in handling information about relations with the executive and judicial branches, the media, lobby-

ists, and public policy research centers.

Recognizing that a great deal of legislative business is conducted informally, the report recommends the development of oral history programmes, modeled on the programme conducted by the Senate Historical Office, to fill gaps in the documentary record. For example, information is spotty or nonexistent regarding: conference committee actions; oral exchanges among members, staff, and lobbyists during the final moments of a controversial vote; partisan disagreements and the development of partisan strategies; the investigative process within Committees; the conduct of campaigns and recruitment; and the function of political parties.

Research access to scattered congressional sources is difficult because of the lack of a common finding aid or data base. The report recommends that the Center for Legislative Archives investigate ways to develop bibliographic resources, including studying the possible creation of a congressional archival data base. Such a data base should build upon the information already available in the *Guide to Research Collections of Former United States Senators, 1789-1993*¹⁰ and incorporate information from finding aids produced by the Senators' archival repositories.

The report recommends that repositories of Senators' papers establish reasonable access guidelines so that collections will be available for research at the earliest possible time, consistent with personal privacy and national security considerations, with limitations set by federal law. Guidelines similar to S.Res 474, 96th Congress which establishes access procedures for the Senate's archival holdings, should be considered for implementation with senatorial collections. This resolution authorizes each Committee to prescribe the time at which its archival records become accessible to the public. In the absence of Committee actions, the resolution establishes norms of fifty years for investigative records and twenty years for other Committee records. Exceptions are records that have already been made public, which retain their public status, and records that have been identified as restricted for purposes of national security, which remain closed until declassified.¹¹

Conclusion

When the public records of the Senate transferred to the National Archives in 1937, the examiner who surveyed the collection reported to the archivist of the United States: "From the standpoint of historical as well as intrinsic interest, this is perhaps the most valuable collection of records in the entire Government. It touches all phases of governmental activity, and contains a vast amount of research material that has never been used." Today, the spirit of the Senate's first Secretary, Samuel Otis, continues to inspire those who care for the Senate's valuable records. A multi-faced archival programme aims to ensure early identification of historical records so that they can be preserved for future use by the Senate and the research public. It also facilitates the preservation of other vital primary sources that, together with the official records of the Senate, form the basis of its documentary history. The Senate welcomes this opportunity to share its experience in administering an archival programme with legislative and parliamentary archivists represented by the Inter-Parliament Union.

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POLITICAL SYSTEM OF URUGUAY

Mario Farachio

The Republic of Uruguay is constituted by the political association of all the inhabitants of its territory.

Sovereignty belongs to the Nation, which has the exclusive right to establish its laws. The country is free and independent since 25 August, 1825, and its first Constitution is in effect since 18 July, 1830. Its political system is representative democracy, with the classical division in Executive, Legislative and Judicial Powers.

There is total freedom of belief and of expression of ideas. The Constitution expressly guarantees all the inhabitants' rights, obligations and warranties. There is no death penalty. Property is an inviolable right. Laws protect the right to work, the intellectual and artistic activities, and the cultural patrimony. The State protects public health and sanitation. A social security system established by law ensures retirements and pensions. Education is free of charge and mandatory at the elementary, secondary and technical levels; it is also free of charge at the higher levels of university, arts and physical education.

Voting is universal, secret and mandatory for all natural citizens and for qualified legal citizens. All citizens are electors and, under certain conditions of age and citizenship, are eligible for office in the highest ranks of government. Elections are held every five years on the last Sunday of the month of November; they are general, and citizens vote to elect the President and Vice-President of the Republic, Senators, Representatives, and the Departmental Governments (the Republic is politically and administratively divided into 19 Departments).

The electoral system guarantees voting that is secret and mandatory, and the strict control of the purity of the electoral act is performed by the Electoral Court. Of the nine members of this body, five are elected by the General Assembly (which is the reunion of both Chambers) by 2/3 of total votes; of the remaining four, two are proposed by the political party that obtained the majority of votes in the last election, and two by the runner-up party, and are appointed by the General Assembly in the same act. There is a law (the "*Ley de Lemas*") which allows for the presentation, within any one political party, of more than one list of candidates for the offices of President, Vice-President, Senators and Representatives; votes for these different lists are accumulated into the sum total of the political party (*Lema*). At present the electoral system (*Ley de Lemas*), proportional representation, and the organization and functioning of political parties law) is under discussion for its possible modification.

Primary scrutiny of vote is performed by the members of the vote reception committees (mandatorily made up of public servants) in the presence of delegates of each one of the accredited political parties, in a public act, and with maximum guarantees. Final scrutiny is performed by the Electoral Court. Once the election results are proclaimed, the newly elected Chambers (Senators and Representatives) take office on 15 of February and the President and Vice-President on March. All of them stay in office for five years. The President of the Republic cannot be re-elected but five years after his previous mandate; Senators and Representatives, however, can be re-elected immediately.

Our political system is an attenuated presidentialism. The President is Commander-in-Chief of the Armed Forces, and the

Executive Power is responsible for the conduction of foreign policy. The Executive Power has exclusive initiative to submit to Parliament laws on the creation of jobs in the public sector, on the increase of salaries, retirements and pensions, investment plans and public works, as well as any other expense that increases the national budget. The national budget is a five-year plan that can be modified once a year. It is established by law, and what pertains to the creation or increase of taxes requires the votes of one-half plus one of the members of each Chamber.

The State, according to the provisions of the Constitution, has Autonomous Entities and Decentralized Services that administer different service such as electricity, telephones, fuels, alcohol, water, and insurances, all of them as monopolies. There are also the State airline, the Harbour Administration, and pipe-delivered fuel gas. The Central Bank is the issuing institute, and polices private banking activities; the Bank of the Republic acts as an investments promotion bank, extending industrial and social credits; and the Mortgages Bank operates in the housing loans area. All of these bodies are highly autonomous, and are ruled by Boards appointed by the Executive Power after obtaining the leave of the Chamber of Senators with the affirmative votes of 3/5th of total members.

The Armed Forces (Army, Navy and Airforce) is professional. There is no mandatory military service. The higher ranks (Colonel, Ship Captain, General, Rear Admiral, Brigadier, Lt. General, Vice-Admiral) are appointed by the Executive Power after obtaining the leave of the Chamber of Senators.

Ambassadors are designed by the Executive Power after attaining the leave of the Chamber of Senators.

The Executive Power also appoints the Attorney General and the District Attorneys, which are the public prosecutors in the area of Justice, after obtaining the leave of the Chamber of Senators with the affirmative votes of 3/5th of total members.

International treaties and agreements necessarily require the approval of the Legislative Power.

The Judicial Power is presided by the Supreme Court of justice, whose five Ministers are elected by the General Assembly (the re-union of both Chambers) with the affirmative vote of 2/3rds of members. Their mandate ceases after 10 years, or upon reaching the age of 70. The Supreme Court of Justice appoints judges and destinations, and carries out the administration of justice in the penal, civil, customs, family, minors, etc., areas.

The Court of Administrative Litigation, whose members have the same rank as those of the Supreme Court, oversees exclusively the administrative branch of law.

The Court of Accounts, an autonomous body whose seven members are appointed by the General Assembly with 2/3rds of total votes, carries out the task of preventively auditing all payments and expenses of all the bodies of the State, as well as their financial management, supervising its legality and good administrative conduct.

Uruguay has a bicameral Legislative Power, consisting of the Chamber of Senators and the Chamber of Representatives.

The Chamber of Senators has 30 Senators, elected in one single electoral district. It is presided by the Vice-President of the Republic, who is the President of both the Senate and the General Assembly. The mandate of Senators and President lasts for five years. Three Vice-Presidents are designated every year. There are two Secretaries General (elected by the Senate by majority of votes), who cannot be Senators, and cease with their mandate. Granting or denying leave for the Executive Power to destitute public servants, to promote the military, to appoint ambassadors, district attorneys and members of the boards of the Autonomous Entities and Decentralized Services, belongs to the exclusive domain of the Senate.

The Chambers of Representatives has 99 members (Deputies), elected in the same electoral act as Senators, President and Vice-President of the Republic and municipal authorities. Deputies are elected by the Departments (the Country's administrative territorial division). Each Department has a minimum of two Deputies, and their number increases, in any given Department, according to the number of voters within each one of the sectors

(*Lemas*) of the political parties, under the system of proportional representation. The term of their mandate is the same as the others. The Chamber of Representatives yearly elects one President and four Vice-President, and has two Secretaries-General elected under the same conditions as those of the senate.

The chamber of Representatives has exclusive competence in matters such as appeals against rulings of the departmental governments.

The General Assembly is the reunion of both Chambers, presided by the Vice-President of the Republic. Among the matters of its exclusive competence are the appointments of members of the Supreme court of Justice, the Court of Administrative Litigation, the Electoral Court and the Court of Accounts; the setting of the salaries of legislators of the incoming legislature, prior to the national elections; control and resolution in the case that the Executive Power decides that internal or external commotion affects the country, and declares especial security measures, which imply the transitory suspension of certain individual rights.

The functioning and conduct of each one of the Chambers, as well as that of the General Assembly, is ruled by the respective Standing Orders, which have been approved by said bodies.

A Permanent Committee, composed by four Senators and seven Deputies, appointed separately by each Chamber, is in session from 15 of December to 15 of March, during the parliamentary recess period. Its competence, fundamentally, are the leaves for appointment and destitution and the control of the Executive Power's conduct. It is not empowered to approve laws.

Bills submitted by the Executive Power are destined by the Presidency of the General Assembly to either the Senate or the Chamber of Deputies. These bills, as well as those proposed by Senators and Deputies in their respective Chambers, all proceed to the previous study of the Permanent Committees of each Chamber. The standing orders of each Chamber also allow for the creation of Especial Committees and Investigative Committees. They establish time limits to the debates in plenary sessions; specify the rules of functioning of the Committees, their integration, and the procedures for appointment to the Committees, as well as the

rights and duties of the President and the Secretary's Office. Bills must be approved by both Chambers, successively, before they are submitted to the Executive Power for their promulgation as law.

Divergences between the Chambers on the wording of a bill are resolved by the General Assembly.

The Executive Power has the right to veto. The General Assembly can overrule the veto with the vote of 3/5ths of members present; otherwise the veto persists, the Bill is null and void, and can only be reconsidered by the next legislature.

Senators and Representatives have the constitutional and individual right to request reports from the Executive Power on different aspects of its administration.

The Chambers have, separately and with the vote of 1/3rd of its members, the right to formally question the Ministers (Secretaries of State). It can pass a move of disapproval to the conduct of a Ministry, which will have political (but not institutional) effects.

The process of censorship can be applied individually to one Minister, or collectively to a part of, or to the entire Cabinet. Any one of the Chambers can have the initiative in this respect, and once the motion is passed in one Chamber it is forwarded to the General Assembly. If the latter approves the censorship by less than 3/5ths of total votes, the President of the Republic can support his Ministers, by which the Chambers are dissolved and elections are called for the renewal of Parliament.

THE U. K. PARLIAMENTARY SYSTEM

MAJ. Wheeler Booth and Clifford Boulton

Composition

House of Commons

There are 651 elected Members of Parliament. Each is elected by simple majority vote in a single member constituency with about 66,500 electors. With limited exceptions all those over the age of 18 are entitled to vote. The proportion of those eligible to vote who actually voted in the 1992 general election was 77%.

The balance between the political parties after the general election held on 9 April, 1992, was:

Conservative	336
Labour	271
Liberal Democrat	20
Scottish Nationalists	3
Welsh Nationalists	4
Ulster Unionists	13
Social Democratic and Labour Party	4

The Speaker and her 3 deputies are drawn from the two main parties (2 Members each) and do not normally vote. The Government's majority over all other parties is 21. There are 60 women MPs.

In the fourteen general elections since 1945, one party or other has achieved an absolute majority of seats in the House of Commons on all but one occasion. Each general elections brings about 100-140 new Members into the House (either through the retirement of the sitting members or his defeat in the election).

House of Lords

There are 1196 holders of peerages entitled to membership of the House of Lords. 758 have become members by inheriting their title from a relative and a further 19 have been created hereditary peers themselves. 373 have been created life peers themselves (and so will not pass on their title to any successor). 26 bishops and 20 serving or retired judges ("Law Lords") sit in the House of Lords because of their office. There are 77 women peers, 18 of whom inherited their title. The potentially active membership (excluding those who have asked for leave of absence and those under age, etc.) is 983; the number which actually took part in the business of the House in the 1991-92 session was 766.

The political balance of the House of Lords is :

Conservative	451
Labour	115
Liberal Democrat	56

256 peers are independent or cross-bench.

These figures are for March, 1992, but the size and composition of the House of Lords are not fixed. The average daily attendance is 337 (1991-1992), and 404 members attended one third or more of the sittings in 1991-92. On an average sitting day, just over one half of those in attendance are life peers. The highest recorded number of members voting in recent years was 509 in 1971. Members of the House of Lords are not eligible to be MPs, but there is provision for an MP who inherits a peerage on the death of a relative to renounce the peerage for his lifetime and

thus remain an MP. Members of the House of Lords, like MPs, may be members of the European Parliament.

Timescale

The maximum length of the "Parliament" is five years from the date of the previous election. The Prime Minister can call a general election at almost any time. The average length of a Parliament since 1945 has been 3.75 years and since 1974, 4.3 years.

Each parliamentary term is divided up into sessions, usually starting in November and lasting for a year. In a normal session, the House of Commons sits for some 33 weeks or 160 days (1990-91). The House of Lords sits for about 150 days, spread over 37 weeks. There are recesses of 2-3 weeks in December/January, 1 week in March or April, 1 week at the end of May and 10-12 weeks in August to October.

Both Houses start their sittings in the afternoons on Mondays to Thursday and in the mornings on Fridays. The House of Commons usually sits until at least 2230 (except on Fridays when the House rises at 1500). The average length of the daily sittings in 1991-92 was 8 hours, 23 minutes. The House of Lords' average daily sitting time in that year was 7 hours, 6 minutes. The number of sitting days in each month in 1991 is as under :

Month	Commons	Lords
January	14	12
February	20	15
March	20	16
April	12	11
May	16	15
June	20	19
July	19	19
August	0	0
September	0	0
October	0	0
November	21	16
December	15	12

The division of time between different activities in the Commons is : nearly one-half of the time spent on the floor of the House is devoted to legislation; and one-quarter each to main debates, and to scrutiny of government (through questions, short debates etc.).

Although any proceedings on the floor of the House provide opportunities for the Government, Opposition and back-benchers, the initiative for choosing the subject under consideration lies mainly with the Government (though they consult with the Opposition). In 1990-91, 52% of business was at the choice of the Government, compared with 31% for back-benchers and 10% for the Opposition. One of the Opposition's main weapons is the choice of subject on the 20 Opposition Days, which occur by agreement twice every three weeks, 17 of these days are at the disposal of the main Opposition party; 3 at the disposal of the smaller parties.

The equivalent proportions in the House of Lords in Session 1990-91 were, excluding judicial business; one half of time devoted to legislation; one quarter to debates, one eighth to scrutiny of government (in the form of questions), and one eighth to delegated legislation and other business.

The time spent on the floor of the House on different types of business in the 1990-91 session is as under :

	Commons	Lords
Government legislation	359h 33m	395h 31m
General debates	369h	220h 48m
Delegated legislation	116 h 23m	36h 58m
Scrutiny ¹	372h 45m	112h 46m
MPs/Peers legislation or debates	124h 55m	31h 29m ²

1. This is defined as questions and short debates in the Commons and questions only in the Lords.

2. Private Members Bills only.

Role of the Speaker

House of Commons

The Speaker is elected from among the Members of the House at the start of each parliamentary term on the basis that she will be able to command the respect of the whole House. She relinquishes all political activities and does not return to party politics when she leaves the position. She exercises important powers in controlling debates and chairs the House of Commons Commission, which employs the staff of the House. Miss Betty Boothroyd MP was elected Speaker in April, 1992. She had won her seat as a Labour candidate in the general election. Previously she was one of the Deputy Speakers for four years. She had been a backbench MP since 1973 and was a Member of the European Parliament in 1975-77.

House of Lords

The Speaker of the House of Lords is the Lord Chancellor, a member of the Cabinet appointed by the Prime Minister and the head of the Judiciary in the UK. He plays an active part as a Minister in promoting Government business in the House of Lords. His duties in presiding over sittings are purely formal; order in the House of Lords is kept by the House as a whole, although the Leader of the House has a particular role in assessing the "sense of the House" and in giving procedural guidance. The current Lord Chancellor, Lord Mackay of Clashfern, was appointed in 1987. Unlike his immediate predecessors, he does not come from a political background and is the first Scottish lawyer to occupy the Woolsack.

Legislative Process

The bulk of the legislative work of both Houses is provided by the Government. Some of it is primary legislation, which has to pass through both Houses in the same form. An increasing amount is secondary legislation (known as statutory instruments) for which there is a variety of simpler parliamentary procedures).

Legislation introduced by private members is allotted specific days for consideration in the Commons and only a small proportion of the bills introduced actually pass into law. In addi-

tion, each House also passes legislation (known as private Bills) to deal with a specific matter affecting only one area or groups of people.

The stages every Bill has to pass through in each House are set out below:

Stage	Commons	Lords
First Reading	Formal <7-10 days>	Formal <10 days>
Second Reading	Debate on principles (one day) <7-10 days>	Debate on Principles <14 days>
Committee	Detailed consideration in Standing Committee (up to 80 hours)	Detailed consideration (in plenary)
Report	Committee amendments discussed in plenary	Further detailed consideration
Third Reading	Debate on principles (for 3 hours)	Further detailed consideration plus debate on principles
Lords/Commons Amendments	Consideration as necessary in both Houses	

Royal Assent : formal announcement in both Houses

Legislation may be introduced in either House, but the Government's main political legislation is usually introduced in the Commons.

The number of hours spent on the floor of the House between these different stages of legislation in the 1990-91 session is as under :

Stage	Commons	Lords
Second reading	174h 75m	103h 15m
Committee (plenary)	51h 17m	167h 58m
Report	95h 47m	95h 58m
Third reading	43h 20m	38h 35m
Lords/Commons amendments	24h 52m	21h 14m
Business & finance motions	27h 09m	N/A

The Commons has power to override the Lords if the Lords twice reject the same Bill passed by the Commons. In practice the Commons' power of rejection has been used very sparingly and the Commons' power to override has been put into effect only once since 1949.

The Lords' powers over raising and spending public money are also limited. Legislation involving taxes or expenditure is not initiated or delayed by the lords.

Despite these apparent restrictions on their power, the Lords play significant part in the legislative process, both by detailed revision of bills and by giving the Commons the opportunity to reconsider particular controversial points. In 1990-91 the Government was defeated 17 times in the Lords on the details of legislation and in only 4 of those cases was the Lords' amendment completely overturned in the Commons. The Government itself also introduces hundreds of amendments per year during the Lords' stages of bills so as to improve drafting, to fulfil commitments made to the Commons, or to reflect changes in policy.

When there is a disagreement between the two Houses, the bill in question travels back and forwards until a common text is agreed. In practice, the pressure for compromise is great. Normally only one or two Bills actually shuttle between the two Houses

each session. In the 1974-75 session the Trade Unions and Labour Relations (Amendment) Bill went to and for six times.

The progress of legislation may be controlled in the Commons, but not in the Lords, by allocation of time ('guillotine') motions introduced by the Government and by the selection of amendments by the Speaker.

Public Bills¹ introduced and passed in 1990-91 session :

Bills which received Royal Assent	61
Government Bills	41
started in Lords	10
started in Commons	31
Private Members' Bills	20
started in Lords	1
started in Commons	19
Bills introduced into but not passed by Commons:	96²
Bills passed by Commons but not passed by Lords:	2
Bills passed by Lords but not passed by Commons:	7

Committees

House of Commons

There are two types of Committees: legislative (Standing) and inquiry (Select). Legislative Committees are set up to deal with the Committee stage of particular Bills, and Members are appointed separately for each Bill. Select Committees are normally set up for the whole parliamentary term, have wide-ranging terms of reference and freedom to choose particular subjects within their overall remit.

1. Excluding Consolidation Bills and Provisional Order Confirmation Bills.

2. all Private Member's Bills.

	Standing	Select
Size	16-20	Departmental: 11 Others (7-21)
Chairman	neutral (chosen by Speaker)	active (chosen by the Committee)
Subject	Bill referred from House	Chosen by committee
Duration	specific Bills	full parliamentary term
Proceedings	formal debate, standing	informal sitting
Public	all meetings	most evidence in public, deliberate in private
Party balance reflects party balance in the House as a whole		
Report	Bill (as amended) and proceedings	Substantive recommendations and evidence

Prominent among the Select (Inquiry) Committee are those which monitor the expenditure, policy and administration of specific government departments. Their pattern of activity is as follows:

- (i) Members nominated by Committee of Selection
- (ii) Committee chooses own Chairman (may be an Opposition MP)
- (iii) Committee chooses own subject(s) of inquiry
- (iv) Written evidence sought from interested parties
- (v) Oral evidence heard from key witnesses
- (vi) Study visits conducted at home and abroad
- (vii) Chairman's draft report considered, amended and adopted

- (viii) Government replies within 60 days
- (ix) New subject chosen

Departmental Select Committees meet at least once a week, produce between two and six reports a year and have a full-time staff of two graduates and two others. They rely on part-time advisers for specialist knowledge.

House of Lords

Detailed discussion of legislation takes place on the floor of the House, so there are no equivalents of the Commons' Standing Committees in the Lords. There are two main Select Committees. The European Communities Committee works through 5 sub-committees, produces some 15-20 reports per year and involves some 60 peers. Its activities are widely respected in the European Community. The Science and Technology Committee works through two sub-committees and has a membership of about 15 peers. Membership of both Committees is based more on personal expertise than political allegiance. *Ad hoc* Select Committees are set up, more frequently than in the Commons, to address particular issues.

Scrutiny of Government

House of Commons

A variety of weapons is at the disposal of backbencher's to test the Government. Ministers from each Department answer oral questions on the floor of the House for between 25 and 55 minutes once a month or so, MPs have to give two weeks notice of the first question but can then ask an unexpected supplementary. The high level of interest in this activity means that only a proportion are successful in asking a question on a particular day. In the 1990-91 session, 4,821 questions were put down for oral answer (and about one half received replies on the floor of the House). Questions seeking information can also be tabled for written answer within a minimum of two days. 32,843 such questions were tabled in the 1990-91 session (205 per sitting day).

On matters of urgency, an MP may ask a Private Notice Question or make a three minute speech pressing for an emer-

agency debate (although such applications are usually granted by the Speaker only two or three times a year). In 1990-91, 20 such Private Notice Questions allowed and 170 disallowed by the Speaker. Pressure for a written statement by the Government on a topical issue also gives an opportunity for airing current concerns. Other opportunities include the half hour adjournment debate at the end of each day's sitting, when a minister will have to reply for up to 15 minutes to the issue raised.

House of Lords

Each day's business starts with up to four oral questions with supplementaries. 531 questions were asked in this way in 1990-91. Questions can also be put at the end of the day's business and give rise to debate (42 in 1990-91) and questions for written answer are also asked (1304 in 1990-91). Private Notice Questions (PNQs) are rarer than in the Commons, with only three asked since 1987-88; but many Commons PNQs are repeated in the Lords as ministerial statements. These and other ministerial statements are open to question on the floor of the House.

Costs and Money

Members of the House of Commons receive an annual salary of £30,854. The sum is voted annually by the House and in recent years has been linked to a grade in the civil service. Members also receive an allowance of £39,960 for the employment of a secretary and/or research assistant and for office equipment. Those who live outside London receive an accommodation allowance; and London MPs receive a smaller living allowance instead. MPs also receive free travel between their homes, constituencies and Westminster and a car mileage allowance linked to the size of their personal car.

Members of the House of Lords are unpaid but can recover expenses within current daily limits of £69 for overnight accommodation, £31 for subsistence and incidental travel and £30 for secretarial expenses. They can also claim the cost of travel between their home and London.

The planned expenditure on running each House in 1993-94 is :

House of Lords	£41 million
House of Commons	£167 million
of which : MPS pay and allowances	£95 million
Administration	£72 million

In addition to official salaries for the Leader of the Opposition and 3 other Opposition officers, about £1m is provided per annum to assist Opposition parties in their parliamentary duties.

Broadcasting

Both Houses are recorded for sound broadcasting. The House of Lords has been televised since January, 1985 and the House of Commons since November, 1989.

Clerk of the House

The Clerk of the House of Commons is appointed by the Queen on the advice of the Speaker. He is appointed for life but, by convention, retires at the age of 65. Sir Clifford Boulton became Clerk of the House in 1987, having served in the Clerks' Department for 34 years. His time is divided equally between procedural and administrative duties. As well as being head of the Clerk's Department, he has overall responsibility for the financial management of the administration of the House.

The Secretary-General of the House of Lords is called the Clerk of the Parliaments. He is appointed by the Queen on the advice of the Prime Minister and holds his position until the age of 65. Michael Wheeler-Booth has been Clerk of the Parliaments since 1991 and previously served as a Clerk in the Lords for 30 years. As well as attending in the Chamber and giving procedural advice, he is the head of the 300 staff employed by the Lords.

THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA

Li Zhongying

The National People's Congress is the highest organ of state power in the People's Republic of China and is composed of deputies elected from the provinces, from the autonomous regions, from the municipalities directly under the Central Government and from the People's Liberation Army. The National People's Congress is elected for a term of five years. It meets once a year, each time electing a Presidium to conduct the session.

The Constitution stipulates that the National People's Congress exercises the following functions and powers:

(i) To amend the Constitution; to supervise its enforcement; to enact and amend basic laws; and to alter or annul inappropriate decisions of the Standing Committee of the National People's Congress.

(ii) To examine and approve the plan for national economic and social development and the report on its implementation; and to examine and approve the state budget and the report on its implementation; and to examine and approve the state budget and the report on its implementation :

(iii) To elect the Chairman, the Vice-Chairmen, the Secretary-General and the members of the Standing Committee of the National People's Congress; to elect the President and the Vice-President of the People's Republic of China; to decide on the choice of the Premier of the State Council upon nomination by the President, and on the choice of the Vice-Premiers, State Councillors, Ministers in charge of Ministries or Commissions, the Auditor-General and the Secretary-General of the State Council upon nomination by the Premier; to elect the Chairman of the Central Military Commission and, upon nomination by the Chairman, to decide on the choice of all other members of the Commission; to elect the President of the Supreme People's Court and the Procurator-General of the Supreme People's Procuratorate; and to remove any of the officials mentioned above.

(iv) To approve the establishment of provinces, autonomous regions, and municipalities directly under the Central Government; to decide on the establishment of special administrative regions and the systems to be instituted there; and to decide on questions of war and peace.

(v) To exercise other functions and powers vested in the highest organ of state power.

The Standing Committee is the permanent body of the National People's Congress. It is responsible to the Congress and reports to the Congress on its work. The Standing Committee is composed of the Chairman, the Vice-Chairmen, the Secretary-General and the members. No one on the Standing Committee may hold office in any of the administrative, judicial or procuratorial organs of the state.

The Standing Committee is elected for the same five-year term as the National People's Congress. The Chairman of the Standing Committee directs its work and convenes its meetings. The vice-Chairmen and the Secretary-General assist the Chairman in his work. The Chairman, the Vice-Chairmen and the Secretary-General assist the Chairman in his work. The Chairman, the Vice-Chairmen and the Secretary-General constitute the Council of Chairmen, which handles the important day-to-day work of the Standing Committee. Generally, the Standing Committee meets once every two months.

According to the provisions of the Constitution, the Standing Committee of the National People's Congress exercises the following functions and powers:

(i) To interpret the Constitution and supervise its enforcement; to interpret laws; to annul those administrative rules, regulations, decisions or orders of the State Council that contravene the Constitution or the law; and to annul those local rules, regulations or decisions of the organs of state power of provinces, autonomous regions, and municipalities directly under the Central Government that contravene the Constitution, the law or the administrative rules and regulations.

(ii) To enact and amend laws, with the exception of those which should be enacted by the National People's Congress: and when the Congress is not in Session, to partially supplement and amend laws enacted by it, provided that the basic principles of these laws are not contravened.

(iii) When the National People's Congress is not in Session, to review and approve partial adjustments to the plan for national economic and social development or to the state budget that prove necessary in the course of their implementation.

(iv) To supervise the work of the State Council, the Central Military Commission, the Supreme People's Court and the Supreme People's Procuratorate.

(v) When the National People's Congress is not in Session, to decide, upon nomination by the Premier of the State Council, on the choice of Ministers in charge of Ministries or Commissions, the Auditor-General or the Secretary-General of the State Council; to decide, upon nomination by the Chairman of the Central Military Commission, on the choice of other members of the Commission; to appoint or remove, at the recommendation of the President of the Supreme People's Court, the Vice-Presidents and Judges of the Supreme People's Court, members of its Judicial Committee and the President of the Military Court; to appoint or remove, at the recommendation of Procurator-General of the Supreme People's Procuratorate, the Deputy Procurators-General and procurators of the Supreme People's Procuratorate, members of its Procuratorial Committee and the Chief Procurator of the Military Procura-

torate, and to approve the appointment or removal of the chief procurators of the people's procuratorates of provinces, autonomous regions, and municipalities directly under the Central Government; and to decide on the appointment or recall of plenipotentiary representatives abroad.

(vi) To decide on the ratification or abrogation of treaties and important agreements concluded with foreign states; to institute systems of titles and ranks for military and diplomatic personnel and of other specific titles and ranks; to institute state medals and titles of honour and decide on their conferment; to decide on the granting of special pardons; when the National People's Congress is not in Session, to decide on the proclamation of a state of way' to decide on general or partial mobilization; and to decide on the imposition of martial law throughout the country or in particular provinces, autonomous regions, or municipalities directly under the Central Government.

(vii) To exercise such other functions and powers as the National People's Congress may assign to it.

III

In accordance with the provisions of the Constitution, the Seventh National People's Congress established a Nationalities Committee, a Law Committee, a Committee of Internal and Judicial Affairs, a Finance and Economic Committee, and an Education, Science, Culture and Public Health Committee, a Foreign Affairs Committee and an Overseas Chinese Committee. These special committees work under the direction of the Standing Committee of the National People's Congress when the Congress is not in Session. Each special Committee is composed of a Chairman, Vice-Chairmen and members, all of whom are nominated by the Presidium from among deputies to the Congress, subject to approval by the Congress. The Standing Committee of the Congress may appoint a few additional Vice-Chairmen and members when the Congress is not in Session. The special Committees may appoint specialists as advisors in accordance with the needs of their work. The seven special committees, whose establishment has been approved at the First Session of the Seventh National People's Congress, are composed of 156 members. Almost three-fourths (115) of the members of the Standing Committee are also members of

special Committees.

The special Committees examine, discuss and draw up bills and draft resolutions on subjects within their competence under the direction of the National People's Congress and its Standing Committee. Their chief functions are as follows:

(i) To examine bills placed before them by the Presidium or the Standing Committee of the Congress.

(ii) To submit to the Presidium or the Standing Committee bills relating to their particular areas of competence and within the scope of the respective functions and powers of the Congress and its Standing Committee.

(iii) To examine those administrative rules, regulations, decisions or orders of the State Council, those orders, directions or regulations of Ministries and commissions under the State Council and those local rules, regulations or decisions of the organs of state power of provinces, autonomous regions and municipalities directly under the Central Government that are regarded as contravening the Constitution or the law, and to submit reports on them.

(iv) To examine the questions placed before them by the Presidium or the Standing Committee of the Congress and hear what the departments concerned have to say on these matters and to submit reports to the Presidium or the Standing Committee as they deem it necessary.

(v) To make inquiries into specific questions relating to their particular areas of competence and to submit proposals within the scope of the respective functions and powers of the National People's Congress and its Standing Committee.

The guideline of the administrative bodies of the Standing Committee is to provide services for the successful convening of Sessions of the National People's Congress and of meetings of its Standing Committee and the Council of Chairmen, and for members of the Standing Committee and deputies to the National People's Congress, enabling them to execute their functions and powers and for the work of the special committees. At present, the administrative bodies under the Standing Committee are:

(1) The General Office of the Standing Committee : In accordance with the provisions of the Organic Law of the National People's Congress, the Standing Committee establishes a General Office which works under the direction of the Secretary-General and is charged with matters relating to meetings, documents, research and publicity of the work of the National People's Congress, contacts with deputies and the People's Congresses at the provincial level, protocol affairs, complaints from the public, management of government cadres and administrative affairs. Under the General Office are a Secretariat and departments for research, liaison, foreign affairs, information, complaints from the public, personnel, administration of the Great Hall of the People, and administration.

(2) The Commission of Legislative Affairs : In accordance with the provisions of the Organic Law of the National People's Congress, the Standing Committee of the National People's Congress establishes a Commission of Legislative Affairs. The main tasks of the Commission are: entrusted by the Council of Chairmen, to draft laws for the Standing Committee; together with relevant departments, to study, draft and amend other bills to be examined by the Standing Committee; to examine draft laws submitted by the State Council and other organs; and to provide the National People's Congress and its Standing Committee with background material for relevant draft laws.

Under the Commission are: a General Office and separate departments for the criminal law, civil law, state law and administrative law, economic law, and research.

THE PARLIAMENT OF THE REPUBLIC OF AUSTRIA

1. The National Council (Nationalrat)

Under the Federal Constitution, the *Nationalrat*, jointly with the *Bundesrat*, exercises the legislative power at federal level.

The Members of the *Nationalrat* are elected by the people; the Federal Constitutional Act, the State Treaty and the First Protocol of the Convention on the Protection of Human Rights and Fundamental Freedoms stipulate the following principles governing elections:

All Austrian citizens—irrespective of their sex, class property, education, religious creed, etc.—having reached voting age are entitled to vote and to be elected. Exclusion from *general suffrage* is possible only as the consequence of a court conviction or ruling. The principle of *equal suffrage* means "one person one vote" or, in other words, that every voter has the same amount of influence on the outcome of the election.

The principle of *direct suffrage* guarantees that every person entitled to vote can exercise his right directly, not through

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members of an electoral college or other intermediary bodies.

Elections must be organised in such a way that the voter casts his vote in person. Voting by proxy is not permitted (*personal suffrage*).

The principle of *free elections* guarantees the voter's freedom of decision, which must not be impaired by the exercise of force or compulsion. This guarantee is supported by punitive provisions in the Code of Penal Law.

The principle of *secret ballot* provides that the vote must always be cast in such a way as to preserve secrecy vis-à-vis the general public and the electoral authority. Suitable facilities (voting booths) have to be provided for this purpose.

Lastly, the principle of proportional representation—as opposed to majority or minority suffrage guarantees parliamentary representation in accordance with the votes received to all numerically important political groups.

Detailed implementation provisions are contained in the Electoral Law governing elections to the *Nationalrat*.

At the beginning of the legislative period, the members of the *Nationalrat* are sworn in. They are free in exercising their mandate ("free mandate") and their freedom of vote and speech is protected by a variety of provisions, including immunity provisions in the interest of the unimpaired functioning of the *Nationalrat*.

Under the principle of the separation of powers, membership in the *Nationalrat* is incompatible with the exercise of certain public functions and, for considerations of member's economic independence, with certain positions in public and private business.

The *Nationalrat* elects from among its members its President as well as its Second and Third Presidents. The President conducts the business of the *Nationalrat* and prepares, jointly with the Second and Third Presidents, the *Nationalrat* budget. As a panel, the three Presidents deputise for the Federal President in case of the latter's "qualified" incapacity (for more than 20 days or

pending a decision on the deposition of the Federal President by referendum) and if the Federal Presidency falls vacant.

In addition, the *Nationalrat* elects five secretaries, who assist the President in the reading of texts and the determination of voting results, and at least three whips, who assist him in the conduct of business and maintaining order.

Standing Committees are entrusted with the preliminary deliberation of legislative matters. In addition to the typical Parliamentary committees such as the Committee on Immunity and the Committee on Incompatibility, one Committee is customarily elected for each department of the Federal Government (such as the Finance Committee, the Judicial Committee, or the Social Affairs Committee).

Special tasks are entrusted to the Main Committee (participation in executive functions) and the Budget Committee (preliminary deliberation on the Federal Finance Acts and concomitant budgetary control).

To facilitate their parliamentary tasks member belonging to the same political party may join the parliamentary caucus or "club", which has to have at least five members to be formally recognised. Members belonging to different political parties may found a "club" only with the approval of the *Nationalrat*.

The Presidents as well as the chairmen of the parliamentary caucuses (parliamentary party leaders) form the conference of Presidents, which has an advisory function with regard to parliamentary work in the *Nationalrat* (work programmes, agendas, meeting hours, etc.)

While the tasks formally entrusted to the Conference of Presidents by law are rather limited, it serves as an important mediating organ for the resolution of conflicts that may arise in the course of parliamentary deliberations.

The legislative period of the *Nationalrat* is four years. The Federal Government has to call general elections in time to ensure that the newly elected *Nationalrat* may meet on the day following the end of the fourth year of a legislative period. Side by side with this "ordinary" dissolution of the *Nationalrat* by lapse of time there

are two more ways in which the *Nationalrat* may be dissolved prematurely; decision to this effect may be taken by the *Nationalrat* itself or the Federal President may dissolve the *Nationalrat* upon proposal of the Federal Government but only once for the same reason.

The Federal Council (*Bundesrat*)

The *Bundesrat* is the legislative body representing the provinces at the federal level. Its members are elected by the legislative bodies of the provinces (the diets) for the duration of their legislative periods (indirect popular election). They need not be members of the diet by which they are delegated but must be eligible for it. The election has to be in accordance with the principles of proportional representation and must be based on the results of the latest election to the provincial diet. As an exception to this principle, at least one seat must fall to the party which has achieved the second highest number of popular votes in the election to the provincial diet.

In exercising their mandate the members of the *Bundesrat* are free from outside influences. Like the members of the *Nationalrat*, they hold what is called a "free mandate". They cannot be recalled by their provincial diet before the end of that diet's legislative period.

The diets elect a substitute member for each member delegated by them to the *Bundesrat*. This substitute becomes the member's *ex lege* successor upon the member's seat becoming vacant, for example, by his resignation, death or for any other reason. The number of members to which the individual provinces are entitled is determined by the Federal President after each census, which is normally taken every ten years. The province with the largest number of citizens has twelve seats, each of the other provinces as many members as corresponds to the ratio between the number of its citizens and that of the most populous province, the minimum of seats being three. The *Bundesrat* thus has no permanently fixed number of members.

The *Bundesrat* is permanently in session, and its membership is partially renewed at different times on the basis of the returns of the elections to the provincial diets. Accordingly, the

legislative activities of the *Bundesrat* are not broken down into sessions or legislative periods.

Chairmanship in the *Bundesrat* changes every six months in the alphabetical order of the names of the federal provinces. In each case, the Council is chaired by the delegate placed first on the list of members representing the diet of the province entitled to chairmanship at any given time. The person chairing the deliberations has the title of President of the *Bundesrat*. Every six months, the Council elects from amongst its members two Vice-Presidents, at least two secretaries and two whips, who, together with the President himself, form the Presidium of the *Bundesrat*.

Like the *Nationalrat*, the *Bundesrat* has Standing Committees entrusted with preliminary deliberations on the subject matters before the Council.

Members of the *Bundesrat* that belong to the same political party may join forces to form a parliamentary group, the minimum number required for recognition being five members. Members not satisfying these requirements may form a parliamentary group only with the approval of the *Bundesrat*.

The President and Vice-Presidents of the *Bundesrat* as well as the Chairmen of the parliamentary groups form the Conference of Presidents of the *Bundesrat*, which assists the President in an advisory capacity.

The Federal Assembly (*Bundesversammlung*)

The *Nationalrat* and *Bundesrat* meet in joint public session as the Federal Assembly (*Bundesversammlung*) at the seat of the *Nationalrat* to witness the swearing-in ceremony of the Federal President, who is elected by direct popular vote for 3 term of office of six years.

Under the Constitution, the *Bundesversammlung* has the power to declare war, to decide on whether a referendum should be held on the basis of a motion submitted by the *Nationalrat*, to recall the Federal President prior to the end of his term of office, to decide on whether to lift the Federal President's immunity from public prosecution on the basis of a motion submitted by the *Nationalrat*, and to decide on an impeachment of the Federal Presi-

dent before the Constitutional Court for violation of the Federal Constitution.

On account of its large membership, the *Bundesversammlung* cannot meet in either the *Nationalrat* or the *Bundesrat* chamber but rather in the chamber of the former House of Deputies in the Parliament building.

The Presidents of the *Nationalrat* and *Bundesrat* alternate as Presiding Officers of the *Bundesversammlung*. The rules of procedure are, *mutatis mutandis*, those of the *Nationalrat*.

Decisions of the *Bundesversammlung* are signed by its Chairman and countersigned by the Federal Chancellor.

The Stages of Legislation

In the Federal Constitutional Act, the *Nationalrat* and the *Bundesrat* are referred to as "legislative organs", which indicates that the main task of these two parliamentary bodies is to deliberate on and adopt federal laws.

At the same time these two bodies are responsible for other matters, in particular state treaties, agreements between the federal government and the provinces, reports of the federal government and its members, statements of the members of the federal government as well as reports by the Court of Audit, the Ombudsman and reports of investigating committees, the latter being only dealt with by the *Nationalrat*.

The first stage of legislation is the submission of a bill (legislative proposal) to the *Nationalrat*. Such proposals can only be submitted by persons or bodies expressly entitled to do so by the Federal Constitution:

The majority of bills are submitted by the federal government; this can only be done by the government as an entity, not by individual Ministers. Prior to their submission to the *Nationalrat*, such bills must be adopted by the Council of Ministers.

Other bills submitted to the *Nationalrat* are private members' bills or proposals by Committees of the *Nationalrat*.

All members of the *Nationalrat* are entitled to submit private member' bills; these can, however, only be discussed if they are seconded by the requisite number of members. Moreover, every Committee of the *Nationalrat* is entitled to make legislative proposals provided that there is a substantive connection between the proposal and the subject matter referred to the Committee for preliminary deliberation.

Bills can also be submitted by the *Bundesrat*. These legislative proposals are directly submitted to the president of the *Nationalrat* by the President of the *Bundesrat*.

Finally, any legislative proposal made by at least 100 000 voters or by one sixth of the voters in each of three provinces ("popular initiative") must be submitted to the *Nationalrat* by the Central Electoral Authority.

The deliberations of the *Nationalrat* begin with the first reading. At this stage, debate is limited to the general principles of the bill in question. Mostly, however, bills are directly referred to the competent Committee without a first reading.

Normally, the Committees are responsible for preliminary deliberation on the bills referred to them, depending on the subject matters within their terms of reference. In addition to the preliminary discussion of the Federal Finance Act (the Budget), the Budget Committee is in charge of the concomitant control of the execution of the budget, even when Parliament is not in session.

In addition, there are a number of committees established solely to deal with specific tasks entrusted to them: The Main Committee and its Permanent Sub-Committee has a share in the government's executive power, the Permanent Sub-Committee sharing the right to issue emergency decrees with the Federal President. The compatibility Committee watches over the compatibility of specified business activities of the Members of Parliament with their parliamentary functions as laid down by the Incompatibility Act, while the Immunity Committee deals with questions relating to members' immunity.

The bulk of parliamentary work is in fact done by the Committees.

Each Committee reflects in its composition the distribution of seats on the floor of the House. The *Nationalrat* decides upon the number of members of each Committee, while the seats on the Committees are allocated to the "clubs" in accordance with their relative strength in the plenary. Committee work is entrusted to members who are particularly well versed in the subject matter in question, which in actual fact already pre-empts the decision on the floor of the *Nationalrat*. The detailed and meticulous discussion of legislative proposals takes place in the Committees or in Sub-Committees, smaller and more flexible bodies mostly set up to deliberate on particularly complex matters.

Committees generally meet in *camera*, which means that the bulk of intensive parliamentary work for the most part goes unnoticed by the general public. Committee work is a dialectic process in the course of which the Committee members and members of the government or their representatives discuss the individual provisions contained in a proposal. At the same time, motions to amend the text, i.e. to alter it, delete parts of it, or add to it, may be made. If the Committee or Sub-Committee so decides, witnesses and experts may be called. Members of the Bundesrat may be present at Committee meetings of the *Nationalrat*.

Once the Committee has completed its deliberations, i.e. once votes have been taken on the bill and all motions made in connection with it, one member is appointed *rapporteur*. It is the task of the *rapporteur* to summarise the results of the Committee's deliberations and the motions adopted by it in a written report to be submitted to the *Nationalrat*. This report is signed by the Committee Chairman and countersigned by the *rapporteur*. The President of the *Nationalrat* then orders the report to be printed and distributed to all members. In addition, a minority opinion by at least three members entitled to vote or a divergent opinion of a single member entitled to vote may be submitted to the *Nationalrat*.

As a rule, the *Nationalrat* will not deliberate on a subject before 24 hours have elapsed since the distribution of the Committee report. A qualified majority may, however, vote to dispense with this rule in particularly urgent cases.

The second reading—the deliberation on the floor of the House on the basis of the Committee report—consists of the *general debate*, which is opened by the Committee's *rapporteur*, and the subsequent special debate; in reality, these two debates are normally held as one. Again, amendments to the bill may be introduced at this stage. The *Nationalrat* may also express its wishes regarding the implementation of the legislation in question by moving resolutions.

As a rule, voting is by standing up (to signify "eye") or remaining seated (to indicate "no"). Members present in the chamber must not abstain. Prior to the vote any member may request that the President announce the number of "eyes" and "noes" once the vote has been taken.

Members may also request, or the President may order of his own accord, that separate votes be taken on individual parts of a question. This gives members the opportunity to vote according to their personal views on specific parts of a bill.

Under certain circumstances, other voting procedures—nominal vote and secret ballot—may be used. Both the nominal and the secret vote require the use of ballots. In the case of a nominal vote, the names of the members as well as their votes are recorded in the stenographic record of the sitting.

Members not present when a vote is taken cannot cast their votes at a later time. In case of a tie—an equal number of eyes and noes—the motion is lost. As a rule, the President in the chair does not vote. He may, however, participate in the process by speaking out for or against the question under consideration, and he always takes part in nominal and secret ballots as well as elections.

The third reading takes place when a bill has been approved on second reading. Its object is to remedy contradictions, spelling or printing errors as well as linguistic flaws. On third reading the vote is taken on the text in its entirety. Once the bill has been adopted on third reading, it is referred to as a *Gesetzesbeschluss* (enactment) of the *Nationalrat*.

As a rule, the quorum required for a decision in the *Nationalrat* is one third of its members, and an absolute majority of

the votes cast is necessary for adoption. However, in a number of cases, other requirements have to be fulfilled. For instance, federal constitutional acts and constitutional provisions contained in simple federal laws require a quorum of one half of the members and a two-thirds majority of the votes cast.

Every enactment of the *Nationalrat* is transmitted to the *Bundesrat* without delay.

Parliamentary procedure in the *Bundesrat* is similar to that in the *Nationalrat*. In addition to the members of the federal government, the Provincial Governors (*Landeshauptleute*—chief executives of the *Laender*) may attend the meetings and have the right to be heard on matters concerning their respective provinces. The enactment transmitted by the *Nationalrat* is first deliberated upon in a Committee, whose *rapporteur* then submits the committee's report to House. The *Bundesrat* has eight weeks to decide whether or not to raise a reasoned objection to the enactment.

The *Bundesrat* cannot raise an objection to decisions of the *Nationalrat* concerning laws governing the Standing Orders or concerning the dissolution of the *Nationalrat*, Federal Finance Acts or Preliminary budgetary provisions, dispositions concerning federal assets, laws governing the acceptance or conversion of a liability on the part of the federal government, laws by which the federal government incurs or converts financial debts, or the approval of the Federal Accounts. Such decisions of the *Nationalrat* are merely communicated to the the *Bundesrat*.

In contrast, the approval of the *Bundesrat* is required for constitutional acts or provisions designed to limit the legislative and executive powers of the provinces as well as for any provisions of the Federal Constitutional Act that affect the *Bundesrat* itself. As far as political treaties, and those amending or complementing laws are concerned which relate to matters falling within the terms of reference of the *Laender*, the assent of the *Bundesrat* is required.

Voting in the *Bundesrat* is normally by show of hands or, alternatively, by the members standing up or remaining seated. As in the *Nationalrat*, members of the *Bundesrat* present in the

chamber must not abstain from voting. Each member is free to demand, prior to the vote, that the President announce the number of members that have voted for or against the proposal in question.

Under certain circumstances, nominal or secret votes may be taken in the *Bundesrat*.

The nominal vote is taken by the secretary making a roll call and the members saying "eye" or "nose" to the question voted upon. The names of the members who have participated in the ballot and their votes are entered in the stenographic record of the sitting. Secret votes are taken by means of ballots.

Members not present when the vote is taken cannot cast their votes at a later time. In case of a tie, the motion (proposal) is lost.

The President in the chair does not normally vote; he may, however, exercise his right to vote by oral declaration on condition that in so doing he will not give rise to a tie. He is, however, free to participate or not in a secret ballot or in an election.

If in those cases where the *Bundesrat* has a veto the chamber decides not to raise an objection, or if it does not raise a reasoned objection within eight weeks from receipt of an enactment transmitted by the *Nationalrat*, the Constitution requires that the enactment be authenticated by the Federal President, countersigned by the Federal Chancellor and published in the Federal Law Gazette.

Unless otherwise explicitly provided for in the law itself, it enters into force after the day on which that edition of the Federal Law Gazette containing the promulgation is published and distributed.

On a proposal by the President the *Nationalrat* matters other than legislative proposals, Court of Audit reports or questions of immunity may, unless objections are raised, be dealt with by a summary procedure without preliminary deliberation by a Committee. This holds in particular when the *Nationalrat* is called upon to approve the conclusion of state treaties and to take note of reports of the federal government or its members.

Parliamentary Control

The *Nationalrat* and *Bundesrat* have the power to review the activities of the federal government, to interrogate members of the government about all subjects pertaining to the exercise of the executive power, and to call for all relevant information.

The Federal Constitution provides for two forms of the *right of interpellation*. The first is the classic form of interpellation, i.e. the right to address written questions to the federal government or one of its members. Such questions must be seconded by the requisite number of Members of Parliament. Questions have to be replied to orally or in writing within two months. Should it prove impossible to provide the information desired, reasons must be given. Furthermore, a (brief) discussion of the reply to a written question may be held under certain circumstances.

In principle, every sitting of the *Nationalrat* and the *Bundesrat* starts with Question Time, when the members of the *Nationalrat* and *Bundesrat* may exercise their right of interpellation by addressing brief oral questions to the members of the federal government. These oral questions must be made known, and the individual to be queried properly notified, at least four days before the sitting in which the question is scheduled to be called up for a reply. The questions so introduced are listed by the President in their proper order and called up for a reply during Question Time. Answers should be short and to the point. Following the reply to his question, the member putting the question has the right to ask up to two supplementary questions. In the *Nationalrat*, a maximum of three more members may ask a supplementary question each. All the supplementary questions asked must be germane to the issue addressed by the principal question.

In both the *Nationalrat* and the *Bundesrat* it may under certain circumstances be decided or moved that a written question addressed to a member of the federal government be given immediate treatment. If this motion is made before the chamber has entered upon the agenda, the President may decide to have the question dealt with at the end of the sitting but not later than 4 p.m.

In Minister or State Secretary queried is obliged to make an oral reply or take position on the subject matter after the reasons for the questions have been given and before the discussion is embarked upon. Under the heading of *Topical Questions* a discussion of subjects of general topical interest concerning the exercise of the executive power of the federal government may be held in the *Nationalrat*. In the course of the discussion no motions may be introduced nor any decisions taken.

A Topical Questions debate may either be ordered by the President of the *Nationalrat* after deliberation in the Conference of Presidents or called at the request of a specified number of members. There must be no more than such debate in each week the *Nationalrat* is in session.

The *Nationalrat* and *Bundesrat* may also formulate their wishes regarding the exercise of the executive powers in the form of *resolutions*. As implied by the term "wishes", these resolutions are merely an expression of the chamber's political will and there is no legal obligation for the executive branch to heed them.

Nevertheless, should the Government not give proper consideration to the wishes of the legislative, the *Nationalrat* may exercise its right to withdraw its confidence from the federal government as a whole or from individual members of the government (*vote of no-confidence—political responsibility of Ministers*), in which case the Federal President has to dismiss the federal government or the member of Government concerned. The right to set up investigating Committees (*right of enquiry*) is also restricted to the *Nationalrat*. Such Committees may serve to examine certain occurrences within the realm of the executive power at federal level. The courts and all other authorities are required to comply with requests on the part of these Committees for investigations and the procurement of evidence, and all public agencies have to produce documentation available to them when requested to do so by a Committee. The investigating Committees confine themselves to fact-finding and an evaluation of these facts from a political perspective. If an investigating Committee so decides the President of the *Nationalrat* may, if sufficient room is available, admit representatives of the media to the hearing of witnesses and experts.

This right of enquiry should not be confused with *parliamentary fact-finding meetings in the Nationalrat and Bundesrat*, which serve to provide the members with information but at which no decisions are made. These enquiries take the form of requests for written statements, the hearing of experts and other witnesses in respect of matters subject to federal legislative jurisdiction. In the course of such meetings, participating Members of Parliament may also take the floor. Unless the Main Committee decides otherwise such fact-finding meetings of the *Nationalrat* are open to representatives of the media.

For the preparation of decisions on matters of great portent and complexity the Main Committee may establish *ad-hoc fact-finding Commissions*. These Commissions present the results of their work in a report to the *Nationalrat* which reflects all opinions. The number of *ad hoc* fact-finding Commissions that may operate simultaneously at any one time must not exceed three.

The Standing Orders as amended in 1988 provide for the establishment of a Committee for *Petitions by Individuals and Groups*. This Committee deals with all matters presented to the *Nationalrat* in writing that relate to subjects within the federal legislative or executive powers and have been :

1. filed in the form of a petition by a member of the *Nationalrat* or
2. supported as a group petition by at least 500 Austrian citizens having completed their 19th year of life.

These matters are referred to the Committee by the President of the *Nationalrat*.

In addition, the *Nationalrat* has the power to bring charges against members of the federal government and persons or agencies endowed with similar responsibilities. Such charges are dealt with by the Federal Constitutional Court (*legal responsibility of ministers*).

As an organ of the *Nationalrat*, the Court of Audit is the competent body to exercise financial control over all economic activities of the federal government. It is also entrusted with the

task of auditing foundations, funds and institutions administered by agencies of the federal government or by virtue of appointments made by them, and enterprises in which the federal government alone or in conjunction with corporations subject to the jurisdiction of the Court of Audit holds at least 50% of the share or equity capital or which the federal government operates alone or in conjunction with such corporations. The Court of Audit is also empowered to examine the financial management of public corporations operating on funds provided by the federal government, of the social insurance institutions, of the *Osterreichischer Rundfunk* (Austrian Radio and TV) as well as other corporations specifically designated by law.

The Court of Audit has to submit annual reports on its activities to the *Nationalrat* and may at any time report to it any observations it has made, along with proposals for action. In addition, the Court of Audit engages in special investigations concerning financial management issues when called upon to do so by a decision of the *Nationalrat* or when this is demanded by a qualified minority.

The examinations carried out by the Court of Audit extend to numerical correctness, compliance with existing regulations, economy, efficiency and effectiveness of expenditures.

Furthermore, the Court of Audit prepares the Federal Accounts and submits them to the *Nationalrat*. Within a parliamentary session, a member of the *Nationalrat* may submit questions to the President of the Court of Audit in budgetary affairs, as well as personnel and organisation matters of the Court of Audit itself.

The Share of the *Nationalrat* and *Bundesrat* in the Federal Executive Power

Both the Federal Constitutional Act and other constitutional law provisions require the legislative organs to participate in the exercise of the executive power in respect of certain specified fields.

This holds in particular for the participation of the Main Committee of the *Nationalrat* in fixing railway fares and rates, postal and telecommunication charges and the price of goods for which the Government has a monopoly. The *Nationalrat* is also

responsible for making proposals for the President and Vice-President of the Court of Audit, for proposing persons to be appointed to the office of ombudsman, and for proposing slates of three names for the appointment of each of the three members and two substitute members of the Constitutional Court. The *Bundesrat*, on the other hand, proposes slates of three names each for the appointment of three members and one substitute member of the Constitutional Court. In addition, the Constitution empowers Parliament to pass simple laws requiring that decrees issued by the federal government of a federal Minister be made conditional upon the approval of the Main Committee of the *Nationalrat*. The Main Committee's approval is also required for the dispatch of military contingents abroad following requests for help by international organisations.

The role of the *Nationalrat* and the *Bundesrat* in concluding state treaties is as follows:

While the Constitution empowers the Federal President to conclude state treaties, all state treaties of a political nature, or state treaties that change or add to legislative acts or the Constitution require the approval of the *Nationalrat*. The *Bundesrat* has the same rights as it has with regard to enactment of the *Nationalrat*.

When approving the conclusion of a state treaty, the *Nationalrat* may decide that it should be implemented by the adoption of the requisite legislative measures; it may also decide that the treaty, or specific, clearly designated parts thereof, should not be published in the Federal Law Gazette, but made known in some other appropriate manner.

THE POLITICAL SYSTEM IN GERMANY

As laid down in the constitution, the Basic Law, the Federal Republic of Germany is a democratic and social federal state. Following reunification on 3 October, 1990, the Federal Republic of Germany now comprises 16 Lander (States). At the Federal level five constitutional organs—the Federal President, the Bundestag (Federal Parliament), the Bundesrat (Council of Constituent States), the Federal Government and the Federal Constitutional Court—are the guarantors of Germany's constitutional, democratic and federal order.

The Federal President

The Federal President who is elected by the Bundesversammlung (Federal Convention) for a five-year term of office is the Head of State of the Federal Republic of Germany. He represents the Federation in its international relations and concludes treaties with foreign states on behalf of the Federation. Moreover, the Federal President signs the laws enacted in accordance with the provisions of the Basic Law. The Federal President also proposes

Contributed by the German Inter-Parliamentary Group

to the Bundestag a candidate for the office of the Federal Chancellor and upon the proposal of the Federal Chancellor he appoints and dismisses the Federal Ministers. Most of the functions of the Federal President, who is above party politics, are of a purely representational character, however.

The Bundestag

The Bundestag, Germany's Federal Parliament, is the only one of the five constitutional organs which is directly elected. The Members of the Bundestag are elected for a four-year term of office under a system of proportional representation (based on the second votes cast for party lists) coupled with the direct election of candidates in the constituencies. Under this complicated electoral system, half of the Members of the Bundestag are elected by a relative majority in one of the 328 constituencies (first vote) and the other Members are elected via the party lists of the Lander (second vote). However, only parties which have obtained more than 5 percent of the votes cast can be represented in the Bundestag.

The main functions of the Bundestag are legislation, control of the Federal Government and the election of the Federal Chancellor. Bills, which may be introduced by Members of the Bundestag, by the Bundesrat or by the Federal Government, are as a rule referred first to the Bundestag Committees responsible, which deliberate on them. Bills are given three readings in the Bundestag; the third reading ends with a final vote in which Parliament, by a majority vote, adopts or rejects the bill.

The President of the Bundestag holds the highest office in the Bundestag. The president incumbent is Prof. Rita Sussmuth. The President and the four Vice-Presidents form the Presidium. The President is assisted in the conduct of business by the Council of Elders, which consists, in addition to the members of the Presidium, of a further 25 members appointed in proportion to the relative strengths of the parliamentary groups. The most important task of the Council of Elders consists in drawing up the Bundestag's work programme and the agenda for plenary sittings. There are currently 24 Permanent Committees in the Bundestag whose terms of reference basically correspond to the fields of competence of the federal Ministries. Their composition, too, is in

proportion to the relative strengths of the parliamentary groups. The members of the individual parties represented in the Bundestag form parliamentary groups, comprising at least 5 percent of the Member of the Bundestag.

Bundesrat (The Council of Constituent States)

The Bundesrat, the representation of the 16 Lander, participates in the legislation of the Federation. Federal laws require the formal consent of the Bundesrat in all cases expressly provided for in the Basic Law, particularly if the interests of the Lander are specially affected. The Bundesrat consists of members of the Land governments, which appoint and recall them. At present, the Bundesrat headed by its President, comprises 68 members.

The Federal Government

The Federal Government consists of the Federal Chancellor and the Federal Ministers. The Federal Chancellor is elected by the Bundestag upon the proposal of the Federal President. The Federal Ministers are appointed by the Federal President upon the proposal of the Federal Chancellor. The Federal Chancellor, the only member of the Government elected by Parliament, determines the general policy guidelines.

The Federal Constitutional Court

The Federal Constitutional Court consists of two Joint Panels (Senate), each comprising eight judges. Half of the members of the Federal Constitutional Court are elected by the Bundestag and half by the Bundesrat. The main tasks of the Federal Constitutional Court consist in taking decisions on the interpretation of the Basic Law, in cases of differences of opinion between the Federation and the Lander and on complaints of unconstitutionality.

UNITED KINGDOM — THE POLITICAL SYSTEM

The United Kingdom's Political System may be considered under four headings :

- Constitution
- Monarchy
- Parliament
- Government

Constitution

The British Constitution is to a large extent a product of historical events. It is not set out in any single document; instead it is made up of statute law, common law and conventions. (Conventions are rules and practices which are not legally enforceable but which are regarded as indispensable to the working of government).

Contributed by the British Group of IPU

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The constitution can be altered by Act of Parliament, or by general agreement to alter a convention. The Constitution is thus adaptable to changing political conditions.

The organs of government overlap but can be clearly distinguished.

Parliament is the legislature and the supreme authority.

The executive consists of:

- The Government the Cabinet and other Ministers responsible for national policies;
- Government departments, responsible for national administration;
- Local authorities, responsible for many local services; and
- Public corporations, responsible for operating particular nationalised industries or other bodies, subject to ministerial control.

The judiciary determines common law and interprets statutes, and is independent of both legislature and executive.

Monarchy

The monarchy is the oldest institution of government, going back to at least the ninth century - four centuries before Parliament. Queen Elizabeth II is herself directly descended from King Egbert who united England under his rule in 829. Today the Queen is not only Head of State, but also an important symbol of national unity.

The Monarch's role in Government The Queen personifies the State. In law she is head of the executive, an integral part of the legislature, head of the judiciary, the commander in chief of all the armed forces of the Crown and the supreme governor of the established Church of England. Britain is governed by her Majesty's government in the name of the Queen.

The Queen summons, prorogues and dissolves Parliament; and gives Royal Assent to Bills passed by Parliament. The Queen also appoints many important office holders, including government ministers, judges, officers, in the armed forces, governors, diplomats, bishops and some other senior clergy of the Church of England. She is involved in conferring peerages, knighthoods and other honours, and pardoning people convicted of crimes. An important function is appointing the Prime Minister; by convention the Queen invites the leader of the political party which commands a majority in the House of Commons to form a government. In international affairs the Queen, as head of State, has the power to declare war and make peace, to recognise foreign states and governments, to conclude treaties and to annex or cede territory.

With rare exceptions (such as appointing the Prime Minister), acts involving the use of "royal prerogative" powers are nowadays performed by government ministers. The ministers are responsible to Parliament and can be questioned about particular policies. Parliamentary authority is not required for the exercise of these prerogative powers, although Parliament has the power to restrict or abolish such rights.

The Queen continues to play an important role in the working of government. She holds meetings of the Privy Council, gives audiences to her ministers and other officials in Britain and overseas, receives accounts of Cabinet decisions, reads dispatches and signs state papers. She must be consulted on every aspect of national life, and she must show complete impartiality.

Parliament

The three elements which make up Parliament — the Queen, the House of Lords and the elected House of Commons — are constituted on different principles. They meet together only on occasions of symbolic significance such as the state opening of Parliament, when the Commons are summoned by the Queen to the House of Lords. The agreement of all three elements is normally required for legislation, but that of the Queen is given as a matter of course to Bills sent to her.

Parliament can legislate for Britain as a whole, or for any part of the country. It can also legislate for the Channel islands and the Isle of Man, which are Crown dependencies and not part of Britain. They have local legislatures which make laws on island affairs.

As there are no legal restraints imposed by a written constitution, Parliament may legislate as it pleases. It can make or change any law, and overturn established conventions or turn them into law. It can even prolong its own life beyond the normal period without consulting the electorate.

In practice, however, Parliament does not assert its supremacy in this way. Its members bear in mind the commons law and normally act in accordance with precedent. The validity of an Act of Parliament, once passed, cannot be disputed in the law courts. The House of Commons is directly responsible to the electorate and, in this century, the House of Lords has recognised the supremacy of the elected chamber. The system of party government helps to ensure that Parliament legislates with its responsibility to the electorate in mind.

The main functions of Parliament are :

- **To pass laws**
- **To provide, by voting for taxation, the means of carrying on the work of governments**
- **To scrutinise government policy and administration, including proposals for expenditure**
- **To debate the major issues of the day.**

The House of Lords

The House of Lords consists of the Lords Spiritual and the Lords Temporal. The Lords Spiritual are:

- **The Archbishops of Canterbury and York.**
- **The Bishops of London, Durham and Winchester, and the 21 next most senior diocesan bishops of the Church**

of England.

The Lords Temporal consist of:

- The hereditary peers and peeresses of England, Scotland, Great Britain and the United Kingdom
- Life peers created to assist the House in its judicial duties
- All other life peers created after significant careers in private or public service

The House is presided over by the Lord Chancellor who is ex-officio Speaker of the House.

The House of Commons

The House of Commons is elected by universal adult suffrage and consists of 651 members of parliament. At present there are 60 women, three Asian and three black MPs. Of the 651 seats, 524 are for England, 38 for Wales, 72 for Scotland, and 17 for Northern Ireland.

The chief officer of the House of Commons is the Speaker, elected by MPs to preside over the House.

Parliamentary Electoral System

For electoral purposes, Britain is divided into constituencies, each of which returns one member to the House of Commons. To ensure the size of constituencies is kept roughly equivalent, four permanent Parliamentary Boundary Commissions, one each for England, Wales, Scotland and Northern Ireland, review the constituencies periodically. They recommend any adjustment of seats that may seem necessary in the light of population movements or other changes. The Government has introduced legislation to shorten the intervals at which reviews are carried out. Elections are by secret ballot, with the candidate winning most votes taking the seat. There is considerable public pressure outside the ruling Conservative Party for some form of proportional representation.

The Political Party System

The party system which has existed in one form or another since the eighteenth century, is an essential element in the working of the constitution. The present system depends upon the existence of organised political parties, each of which presents its policies to the electorate for approval. The parties are not registered nor formally recognised in law, but in practice most candidates in elections, and almost all winning candidates, belong to one of the main parties.

For the last 150 years a predominantly two-party system has existed. Since 1945 either the Conservative Party, the origins of which go back to the eighteenth century, or the Labour Party, which emerged in the last decade of the nineteenth century, has held power. A new party - the Liberal Democrats - was formed in 1988 when the Liberal Party, which could trace its origins to the eighteenth century, merged with the Social Democratic Party, which had been formed in 1981. Other parties include two nationalist parties, Plaid Cymru (founded in Wales in 1925) and the Scottish National Party (founded in 1934). In Northern Ireland there are a number of parties. They include the Ulster Unionist Party, which was formed in the early part of this century; the Democratic Unionist Party, founded in 1971 by a group which broke away from the Ulster Unionists; and the Social Democratic and Labour Party, founded in 1970.

Since 1945 eight general elections have been won by the Conservative Party and six by the Labour Party; the great majority of members of the House of Commons have belonged to one of these two parties. The percentages of votes cast for the main political parties in the last general elections of April, 1992 were Conservative 41.9%; Labour 34.4%; Liberal Democrat 17.8% and others 5.9%.

The party which wins most seats (although not necessarily the most votes) at a general election, or which has the support of a majority of members in the House of Commons, usually forms the government. By tradition, the leader of the majority party is asked by the sovereign to form a government. About 100 of its members in the House of Commons and the House of Lords receive ministerial appointments (including appointments to the

Cabinet) on the advice of the Prime Minister. The largest minority party becomes the official Opposition, with its own leader and "shadow cabinet."

Government

Her Majesty's Government is the body of ministers responsible for the administration of national affairs. The Prime Minister is appointed by the Queen, and all other Ministers are appointed by the Queen on the recommendation of the Prime Minister. Most Ministers are members of the Commons, although the government is also fully represented by Ministers in the Lords. The Lord Chancellor is always a member of the House of Lords.

The composition of governments can vary both in the number of Ministers and in the titles of some offices. New ministerial offices may be created, others, may be abolished, and functions may be transferred from one Minister to another.

Prime Minister

The Prime Minister is also, by tradition, First Lord of the Treasury and Minister for the Civil Service. The head of the Government became known as the Prime Minister during the eighteenth century. The Prime Minister's unique position of authority derives from majority support in the House of Commons and from the power to appoint and dismiss Ministers. By modern convention, the Prime Minister always sits in the House of Commons.

The Prime Minister presides over the Cabinet, is responsible for the allocation of functions among Ministers and informs the Queen at regular meetings of the general business of the Government.

The Prime Minister's other responsibilities include recommending a number of appointments to the Queen. These include:

- Church of England archbishops, bishops and deans and some 200 other clergy in the Crown 'livings'.
- Senior judges, such as the Lord Chief Justice.

- **Privy Counsellors.**
- **Lord-Lieutenants of counties.**

The Cabinet

The Cabinet is composed of about 20 Ministers (the number can vary) chosen by the Prime Minister and may include departmental and non-departmental Ministers.

The functions of the Cabinet are initiating and deciding policy, the supreme control of government and the co-ordination of government departments. The exercise of these functions is vitally affected by the fact that the Cabinet is a group of party representatives, depending upon majority support in the House of Commons.

The Privy Council

The Privy Council was formerly the chief source of executive power in the State; its origins can be traced back to the *Curia Regis* (or Kings' court), which assisted the Norman monarchs in running the government. As the system of Cabinet government developed, however, the Privy Council became less prominent. Many powers were transferred to the Cabinet as an inner committee of the council and much of its work was handed over to government departments, some of which were originally committees of the Privy Council.

Nowadays the main function of the Privy Council is to advise the Queen to approve Orders in Council, including those made under prerogative powers, such as orders approving the grant of royal charters of incorporation, and those made under statutory powers. Responsibility for each Order, however, rests with the Minister answerable for the policy concerned, regardless of whether he or she was present at the meeting where approval was given.

Government Departments

Government departments and their agencies are the main instruments for implementing government policy when Parliament

has passed the necessary legislation, and for advising ministers. They often work along side local authorities, statutory boards, and government-sponsored organisations operating under various degree of government control.

A change of government does not necessarily affect the number or general functions of government departments, although major changes in policy may be accompanied by organisational changes.

Departments are usually headed by Ministers. Certain departments in which questions of policy do not normally arise are headed by permanent officials, and Ministers with other duties are responsible for them to Parliament. For instance, Ministers in the Treasury are responsible for HM Customs and Excise, the Inland Revenue, the National Investment and Loans Office and a number of other departments as well as executive agencies such as the Royal Mint. Departments generally receive their funds directly out of money provided by Parliament and are staffed by members of the Civil Service.

Local Government

Local authorities' powers and duties are conferred on them by Parliament. In the case of certain services, government Ministers have powers to secure some national uniformity of standards, but in other cases their powers are strictly limited.

Local government expenditure accounts for about 30% of public spending and in recent years the central government has sought to control the level of local expenditure.

POLITICAL SYSTEM OF VENEZUELA

Alejandro Martinez Ubieda

The Government of the Republic of Venezuela is, and shall always be, democratic, representative, responsible and optional. The sovereignty rests in the people, who exercise it through voting for the organs of public power. The vote is a public right and a function. Its exercise is obligatory within the limits and conditions laid down by Law. All Venezuelans are voters except for jailed inmates. The voting age is 18 years. Voting in elections can be extended to foreigners holding residential status.

The organs of Public Power are the Executive, Legislative and Judicial Powers.

The Executive Power is represented by the President of the Republic and all other officials determined by the Constitution and the Laws. The President of the Republic is the Head of State as well as of the National Executive.

The election of the President is carried out through universal and direct voting, the candidate obtaining a relative majority of votes being thus proclaimed.

The Legislative Power is exercised by the Congress (Parliament), made up of two Chambers: the Senate and the Chamber of Deputies.

The process of legislation on matters of national competence and on the functioning of the different branches of the National Power falls within the purview of Congress. Congress also exercises control over the nation's Public Administration, in line with terms established in the Constitution. It also has the function of passing Laws.

The constitutional period of the National Power lasts five years; the opening and closure of both Chambers take place simultaneously. The date for commencement of the ordinary sessions, fixed by the Constitution, is the 2nd of March every year.

For the Senates, universal and direct voting is held to elect two Senators for each State and two for the Federal District, besides two additional Senators as a result of applying the principle of minority party representation, as established by Law. Those Citizens who have been President of the Republic will be Senators for life.

The Senate has the task of initiating debate on Draft Laws relating to international treaties and conventions.

Universal and direct voting is held for the Chamber of Deputies (with proportional representation of minority parties) for electing the number of Deputies determined by Law on the basis of the population of each state.

Both Chambers in joint session and with an absolute majority vote of the members, can extend their sessions to deal with pending matters.

The Judicial Power is represented by the Supreme Court of Justice and by other courts determined by Organic Law. The Supreme Court is the highest tribunal of the Republic, and its judges are elected by the Chambers in joint sessions for a period of nine years.

There are several Bodies that could be defined as control entities. These are : the Office of the Attorney-General, the Council of Judicature, the Public prosecutor's Office and the Office of

the comptroller General of the Republic.

The Office of the Attorney General of the Republic is invested with the duty of representing and defending legal and extra legal matters relating to the patrimonial interests of the Republic and also acts as legal advisor to the public Administration.

The council of Judicature is responsible for watching over the autonomy, efficiency, discipline and decorum of the Courts.

The Public Prosecutor's Office exercises the function of keeping vigil on compliance of the Constitution, with the Prosecute General in charge of the laws. The Prosecutor General must fulfil the same conditions as the Judges of the Supreme Court of Justice and is also elected by both Chambers of Congress in joint session.

The Office of the Comptroller General of the Republic has the role of controlling, keeping watch over and auditing the nation's revenues, expenditure and properties as well as the operations relating thereto. The Office of the Comptroller General of the Republic is an auxiliary body of Congress for wielding control over the Public Treasury. The Comptroller is elected in joint session within the first thirty days of each constitutional period.

POLITICAL ORGANISATION OF THE ARGENTINE REPUBLIC

The Argentine Constitution begins by stating that the Argentine Republic adopts for its government the representative, republican and federal form. That is to say, power arises from the people who govern through their representatives and its political organization is that of a democratic and pluralist Republic, where prevail fundamental liberties enshrined in the same Constitution, in the Declaration of Human Rights and in all documents, treaties and international conventions which have now been consecrated by the international community through the United Nations Organisation.

Federal organisation of the State implies that power is decentralised, permitting the existence of various States : a Federal or National State and those of other States, which are member-States-specific States, called Provinces. The Constitution, in adopting the federal form, permits the co-existence of the Republic national powers and authorities with provincial powers and authorities. The Constitution regulates the jurisdiction of the Federal or National State and that of the local or provincial States, establishing between them an indivisible regime. Hence, the provinces are units or member-States of the Argentine Federation.

Contributed by the Congress of the Argentine Republic

In other words, the federal organisation is part of a union, with a sovereign State (the national State) formed by autonomous but not sovereign States, which are the Provinces. Within this structure, the national Constitution is the supreme law and the Provinces, though empowered to adopt their own Constitutions, must do so subordinating them to the National or Federal Constitution. This outlines the basic guidelines and norms that the provinces cannot disobey or violate, but have to adhere and introduce in their own Constitutions.

The organisational outline of power in the National State and the provincial States is the tripartition of powers; that is to say : Executive Power, Legislative Power and Judicial Power.

The Executive Power is vested in a citizen with the title President of the Republic, elected through indirect election, that is to say, through an Electoral College, whose members are elected directly by the people. He holds office for a term of six years and cannot be re-elected except after an interval of one term counted from the date he ceases in his duties. He was wide powers, becoming what is known in Constitutional Law as a strong Executive power. He is assisted in his duties by eight Ministers, who must sign, with him, according to their area of competence, the different acts and dispositions, of the government. The President dismisses and removes these Ministers at his will, without the intervention of any of the other powers. Among other powers, he has the power to co-legislate, as once a law is passed by the Congress, he must promulgate its coming into force. However, the Constitution contemplates the automatic promulgation if, after a brief period, the Executive has not proceeded with its promulgation. He has also the power to veto partially or fully the laws sanctioned by the Congress and the Congress, in its turn, has the power to insist on its sanction by two-third majority of its members present, in which case the will of the Congress prevails. He inaugurates every year the sessions of the Congress, which begins on May and can extend the ordinary period of the sessions, which end on 30 September, or can summon extraordinary sessions. In the case of extraordinary sessions, the Congress can only deal with the bills included in the message of convocation.

The Congress, or the legislative power, consists of two Chambers: the Senate, consisting of two Senators for each Province and two for the Federal District, who represent, respectively, their provinces, as a Federated State and the Federal Capital or Federal District, which is the seat of the national authorities. At the moment, the Republic consists of twenty-three provinces and the Federal District. Thus it consists of 48 Senators. The Senators are elected by the legislatures of their respective provinces, while those of the Federal Capital are elected by an Electoral College. They serve for nine years and one third of the Senate is renewed every three years. The minimum age to be a Senator is 30. He must have been a citizen for at least six years and must be a native of the province that elects him or have two years' residence therein preceding the election.

The Vice-President of the Republic presides over the Senate, who is elected together with the President of the Republic and in the same manner and replaces the President in case of his temporary or permanent absence.

Apart from its legislative function, the Senate has certain functions of co-government with the Executive, as it must give its agreement to the appointment of judicial magistrates, ambassadors of the diplomatic corps and ranks in the higher grades of the armed forces, among others.

The Chamber of Deputies is composed of representatives directly elected by the people of the provinces which form the Republic and are elected through direct vote by a simple majority of the votes. At present for the election of Deputies, as well as for the electors of the President and Vice President of the nation, a system of proportional representation exists, which enables the parties to have their representatives in the Congress on the basis of the number of votes obtained by them in the elections.

In the Western tradition, since the commencement of the English parliamentary system, the Chamber of Deputies has the exclusive right to initiate all bills that establish taxes or recruitment of troops. It can also impeach before the Senate the President, Vice-President, and the magistrates of the national judiciary, for misfeasance or gross incompetence in their functions, in which case the Senate becomes the Tribunal to judge them. This

is mainly a political trial so that in a later stage the accused can also suffer the penal consequences of their conduct. When the accused is the President of the Republic, the Senate as Tribunal is presided over by the President of the Supreme Court of the nation.

The initiative for laws, apart from those mentioned above, can emanate from the two Chambers of the Legislative power as also from the Executive power.

A Deputy must at least be twenty-five years of age, have been a citizen in the exercise of such rights for four years and be a native of or have resided for two years preceding in the province that elects him. The term of office of a Deputy is four years but one-half of the chamber is renewed every two years.

In case of vacancy in the office of the President of the Republic, the Vice-President succeeds him and in case of vacancies in both offices, the Provisional President of the Senate who is elected every year for that purpose. In case of his disability or death, he is succeeded as head of State by the President of the Chamber of Deputies and in his absence, he will be succeeded by the President of the Supreme Court of Justice of the nation. When the Executive power is discharged by any one of the last mentioned three officials, the election of a new President of the Republic must take place within a very short period of time.

The judicial power is vested in a Supreme Court of Justice of the nation, consisting of nine members, who are appointed by the President of the Republic, with the approval of the Senate, as is the case for all Appellate Chambers and lower courts established by the corresponding law. To be a member of the Supreme Court, one must be lawyer with eight years of practice and possess the qualifications required to be a Senator.

The justices of the Supreme Court and of the other lower courts hold office during their good behaviour, that is to say they are irremovable, and can only be removed by a process of impeachment initiated by the Chamber of Deputies before the Senate of the Nation. Their remuneration cannot be decreased and the questions of competence are established in special laws passed for that purpose.

The Supreme Court is the supreme judge of the Constitution and is the only authority to judge the constitutionality of the laws or the decisions of the lower courts, with the exception of cases in which it has original jurisdiction, like among others, litigations between two provinces or cases in which representatives of foreign countries are parties or between the nation and one or more provinces.

THE PARLIAMENT IN NEW ZEALAND

New Zealand's Parliament

In 1852, the United Kingdom Parliament passed an Act "to grant a representative constitution to the Colony of New Zealand". This Act—the New Zealand Constitution Act—contained the seeds of the system of parliamentary democracy New Zealand presently enjoys. In terms of continuously functioning national Parliaments this means that New Zealand has one of the world's oldest. Not more than eight other countries have Parliaments dating back to before May, 1854, when New Zealand's first parliamentarians assembled in Auckland.

Under the Constitution Act, 1986, the law-making function within New Zealand is vested in this Parliament, which consists of two elements—the Sovereign (who is represented in New Zealand by a Governor-General) and the House of Representatives. The Governor-General plays a largely formal role as an element of the Parliament, and the main focus of attention is the popularly elected chamber of the Legislature, the House of Representatives. It is the House of Representatives which is almost invariably identified with Parliament in New Zealand, so much so that members of the House of Representatives are entitled to be known and designated as "members of Parliament".

Contributed by the House of Representatives

Responsible Government

When the House first met in 1854, the executive authority within the then colony was exercised much more personally by the Governor than is the case today. The Governor's advisers, those persons who carry out his wishes of "minister" to him, were not members of Parliament but persons who owed their positions to their standing and personal relationships with the Governor.

For the first two years of Parliament's existence, Ministers were not chosen by the Governor because they commanded the support of a majority of members of the House but for these other personal reasons. This severely limited the House's control and influence on the Government, for the ultimate means of such control—withdrawal of its support for the Government leading to the Government's dismissal — could not be brought to bear when other factors determined the composition of the Government. It was the endeavour of most of the early legislators to achieve for New Zealand a "responsible" form of Government, that is one in which Ministers were answerable to, and subject to the full control of, the House for their official actions, to add to the representative form of government conferred by the Constitution Act.

In 1856, the Governor, after consulting the Imperial Government, accepted that he would in future choose Ministers only from among members of Parliament who could rely on the support of a majority of members of the House. Responsible government had been achieved. It is on this principle that Ministers are appointed by the Governor-General today. All Ministers must be members of Parliament.

Number of Members

The House of Representatives, elected for the first time during the course of 1853, consisted of thirty-seven members. This figure was determined by Governor George Grey under the authority of the Constitution Act. Parliament very soon took into its own hands the determination of the total membership of the House and this has gone up and down (usually up) over the succeeding years.

The Electoral Act 1956, which governs representation in the House and electoral matters generally, does not prescribe a

total number of members as did its predecessors. Instead, it prescribes a formula by which the total number of members may be calculated. The Act provides that the House shall consist of members elected for General electoral districts (or "seats") and for Maori electoral districts. There are four Maori electoral districts. These were first created in 1867 and consist of a Northern, an Eastern, a Western, and a Southern electoral district. There are twenty-five General electoral districts in the South Island. The number of districts in the North Island is the number of seats equivalent per head of electoral population to the twenty-five South Island seats. Thus, while there are always twenty-five members, representing General electoral districts in the South Island, the number of members for North Island General electoral districts varies up or down depending upon relative population movements between the two islands. At present there are ninety-seven seats in total.

Term of Parliament

Each Parliament is elected for a maximum term of three years. In 1990 a proposal to extend the term of Parliament to four years was defeated at a referendum. The ninety-seven members are each elected on a simple first-past-the-post system of voting.

Electoral reform

On 19 September, 1991, a referendum on New Zealand's voting system was held with the result favouring a change to the present voting system. The referendum also offered four "reform options", of which the most popular was for the mixed member proportional system.

The Electoral Reform Bill currently before a parliamentary Select Committee will provide for a further referendum to coincide with the general election due later this year. The second referendum will be a binding one with a choice between the present first-past-the-post system and the mixed member proportional system.

The sitting day

The regular days on which the House meets (its "sitting" days) are Tuesdays, Wednesdays and Thursdays, when it sits from two to five-thirty in the afternoon, and then from seven-

thirty to ten-thirty in the evening. The House can sit on other days if it so decides and, although it is not common now, Monday and Saturday sittings were quite frequent occurrences in the past as the House endeavoured to get through all its business and allow members to return to their homes. In 1860, the House even went so far as to authorise the Speaker to appoint sittings of the House on either of these days for the remainder of the session if he thought fit. Under the Standing Orders, there can be no sitting of the House on a Sunday.

CENTENNIAL OF WOMEN'S SUFFRAGE IN NEW ZEALAND

New Zealand became the first self-governing nation in the world to grant universal suffrage when the Electoral Bill became law on 19 September, 1893. The centennial of this event will be celebrated in 1993. Suffrage year will be a time when we can assess the current status of women and consider what still has to be done to achieve true equality.

A campaign for equality

The New Zealand campaign for women's suffrage did not include chaining to the railings, heckling banners, or enormous marches. The campaign had its origins in an amendment to the Qualification of Electors Bill moved by John Ballance, a member of Parliament, in 1879 which affirmed the principle of women's suffrage. The amendment was defeated, but it eventually led the Women's Christian Temperance Movement Union (WCTU) to take up the issue.

Kate Sheppard, the superintendent of the franchise department of the WCTU, was the prime mover and organiser of meetings where people spoke on the issue. She also organised the circulation of literature and petitions. In 1893, a petition seeking an amendment to the Electoral Act gathered more than 30,000

signatures, reputedly the largest ever in Australia at the time, and was sent to Sir John Hall, MP, for presentation to Parliament.

After much debate, an Electoral Bill granting the franchise to women was passed. On 19 September, 1893, the Bill was given the Royal assent.

The first to vote

New Zealand women in 1893 were not the first in the world to win the vote. That honour probably belongs to the very small number of women descendants of the Bounty mutineers who helped to elect the first constitutional Magistrate and Council of Pitcairn Island in 1838.

But we do have a respectable claim among Western-style democracies to be one of the first where all women gained the right to vote. This claim depends on how the words "country" or "State" are defined in complicated areas of international and constitutional law.

Other places where women were enfranchised before 1893 include Norfolk Island, the Isle of Man (but only for women who owned property) and Wyoming. The state of Colorado and the island of Rarotonga in the Cook Islands share a women's suffrage centennial although women were enfranchised in those places after 19 September, the day New Zealand women gained the right to vote. It can be argued that New Zealand in 1893 was, in reality if not strictly in law, more of an independent country or state than any of these were and that New Zealand's independent status made it a world leader in the cause of women's suffrage.

Although New Zealand was decades ahead of most countries in the northern hemisphere in establishing universal suffrage, it was another 40 years before a woman was elected to Parliament in 1933 and the first woman Cabinet Minister in New Zealand was not appointed until 1947. By 1990, there were 16 female Members of Parliament. At the present time, there are three female Ministers of the Crown.

Whakatu Wahine

In July, 1991, the Government designated 1993 as an official Suffrage Centennial Year and set up a \$5 million trust fund to

contribute towards centennial projects and events.

Six prominent New Zealand women were appointed to the 1993 Suffrage Centennial Year Trust—Whakatu Wahine. Their task is to promote public understanding of Suffrage Year, to help fund projects which will be of lasting benefit to the community, and to encourage all women to develop their full potential.

The Trust is headed by Chairperson, Dame Miriam Dell. Dame Miriam is an active Campaigner for women and children who has served on many community and government organisations. Events are set to run throughout the year leading up to the 19 September to commemorate the centennial.

Suffrage Year

Nineteen ninety-three is a significant milestone in New Zealand history. It will celebrate the achievements of the past 100 years, provide an opportunity to assess the current status of women and promote a new vision towards 2093.

HISTORICAL EVOLUTION OF THE PARLIAMENT OF ZIMBABWE

WHC Gurure

The evolution of the Zimbabwe parliamentary system of government can only emerge clearly when it is examined within the context of the country's constitutional development. The Constitutions that were introduced from time to time determined the composition, functions and authority of Parliament. The first major constitutional development was the enactment of the Southern Rhodesia *Order-in-Council of 1898*, which settled the pattern of the country's first legislative and electoral system.

The *Order-in-Council of 1898* established a Legislative Council, an Executive Council and Common Roll franchise. The Legislative Council, which was to govern the colony, comprised four elected members and five British South Africa Company (BSAC) appointees, with the company administrator as the Chairman, the resident Commissioner (*ex-officio* without a vote) and not less than four other Members who were Company nominees. The Common Roll franchise was open to males who were over twenty-one years of age and were either British subjects by birth or naturalisation or had taken an oath of allegiance. These men were supposed to

be literate to the extent of being able to write one's name, address and occupation and had to have property worth not less than seventy-five pounds sterling or ownership of a mining claim, or receipt of wages at a rate of not less than fifty pounds, sterling,

per annum. However, although franchise was open to all men, in practice, it excluded all Blacks because they did not meet the material qualification. In 1919, the franchise was generally extended to women.

The Legislative Council was empowered to make laws 'for the good government of Southern Rhodesia' which in essence is the role of Parliament. The Legislative Council could not, however, pass laws which were contrary to the ordinance. The ordinance also limited the powers of the Legislative Council with regard to Africans and the implementation of customs duties.

The creation of the Legislative Council left the Board of Directors of the BSAC without the power of making laws. However, since the Company was solely in charge of the finances of the country, a provision stipulating that the Legislative Council could not propose a financial vote was engraved in the ordinance.

In the first Session of the Legislative Council, the four elected members found themselves in frequent opposition to the nominated members representing the Company. A movement was soon under way to increase the number of elected members. Eventually, an agreement was reached and by amending the *Order-in-Council in 1903* the membership of the Council was increased to seven elected and seven nominated members. At the same time, the Administrator lost his deliberative vote but retained a casting vote.

Dissatisfaction nevertheless continued and, as early as 1907, a motion was debated by the Council requesting the establishment of responsible Government. Shortly afterwards, the Company bowed to public pressure and agreed to limit the nominated members to five. This agreement was finally ratified by an *Order-in-Council in 1911*, whereby the elected members achieved an overall majority.

In 1914, the British Government issued an important supplementary *Charter* which laid open the path to responsible Gov-

ernment. The *Charter* promised the white settlers responsible Government if they expressed an 'unmistakable desire for it' and when they had demonstrated that the country's finances were in order. From then onwards, the white settlers were determined to exploit this undertaking by the British Government. A tussle developed in 1918 between the Company and the settlers to relinquish its administration of the country to the British Government. The Judicial Committee of the Privy Council ruled that land belonged to the Crown and not the BSAC. An arrangement was made to compensate the Company and by 1922 the main issues in the country were 'Responsible Government' or option to join the Union of South Africa. In a referendum that was held the same year, the white settlers voted for responsible Government. On 1 October, 1923, the Southern Rhodesia Constitution Letters Patent brought to an end the Company's administrative control of the country.

The 1923 Constitution

The Constitution of 1923 provided for a Legislative Assembly composed of thirty members who represented 15 two-member electoral districts. The Legislative Assembly was empowered to elect a Speaker who did not have to be a Member of the Assembly. He was entitled to a casting vote. The Legislative Assembly was also empowered to pass a law constituting a Legislative Council or seconded chamber. This provision was not taken up and the Legislative Assembly remained to all intents and purposes the Legislature until the creation of a Senate in 1970. The Legislature was given full powers of legislation: procedures and privileges to members were clearly defined. There was a Ministry of Cabinet type selected from the Legislative Assembly and headed by a Premier.

Although the 1923 Constitution was favourable to the settlers, it had some reserved clauses which were restrictive on some issues of Legislature. A Governor was appointed by the Crown and was to act as the Head of State and Imperial Officer communicating in his own right with His Majesty's Government. He had the right to reserve certain Bills for the signification of His Majesty's pleasure.

The 1961 Constitution

The character of Parliament continued to be basically the same between the years 1923 and 1961. The only significant changes came in 1953 with the entry of Southern Rhodesia into the Federation of Rhodesia and Nyasaland which broke up in 1963. Important functions, such as Defence, External Affairs, Health and Agriculture were transferred from the Government of Southern Rhodesia to Federal Ministries.

A new element of separate representation for Blacks was written into the Federal Constitution. The Federal Assembly had thirty-five members including six Africans - two from each territory. In addition to these six African Members, three other parliamentarians were given special responsibilities for African Affairs.

The 1961 Constitution instituted a number of important reforms into the legislature of the country. Firstly, membership of the House was increased from thirty to sixty-five. Fifty of these were elected from fifty constituencies by voters on the 'A' Electoral Roll and fifteen were elected from fifteen electoral districts by voters on the 'B' Electoral Roll. Secondly, the powers vested in the British Secretary of State disappeared. And thirdly, there was provision for a Declaration of Rights and for a Constitutional Council which would be a watchdog of the people for safeguarding their rights under the Declaration. Thus, the 1961 Constitution was a milestone on the path of Southern Rhodesia's march towards unimpeded legislative sovereignty.

For the Africans, however, the Constitution was unsatisfactory as they felt the seats allocated to them were too few.

In a referendum conducted in November, 1964, the settlers registered their desire of independence on the basis of the 1961 Southern Rhodesia Constitution. Consequently, on 11 November, 1965, the Prime Minister, Mr. Ian Smith announced his unilateral Declaration of Independence and the adoption of a new Constitution closely based upon the 1961 Constitution, but without any element of subordination to Britain.

The 1969 Constitution

In 1969, the illegal regime of the white settlers held a

referendum for the adoption of a new republican Constitution and flagrantly and overtly introduced a racial franchise which provided for fifty white settlers elected on a separate roll by the white settlers electorate and sixteen African members elected by African voters. The new Constitution also provided for a second chamber (Senate) with twenty-three members, ten of whom were to be white settlers and another ten, Africans. The remaining three were to be appointed by the President.

The Senate was introduced mainly to cater for the ageing Rhodesia Front members and to provide a window dressing for Blacks by reserving ten seats for the Chiefs.

The 3 March, 1978 Agreement

The Liberation war intensified at the beginning of the 70s. Many Black youths joined the struggle and by 1978, the situation had actually gone bad, forcing the illegal regime to consider a settlement. However, the guerillas were unwilling to participate in a settlement that still left the actual ruling power in the hands of the white regime. Ultimately, the illegal regime of Ian Smith decided to sign an agreement with those politicians who had been rejected by the guerillas. An agreement was signed between Ian Smith on one hand and Sithole, Muzorewa and Chirau on the other. The Agreement signed on 3 March, 1978, provided, among other things, for an Executive Council with rotating Chairman but with Ian Smith as Prime Minister during the transition; 28 seats were reserved for whites in the Legislative Assembly for 10 years (or the tenure of two Parliaments), protection of property rights, retention of the existing security forces and the police and 'independence' of the judiciary.

However, one major change that occurred as a result of the internal settlement of 3 March, 1978 was that for the first time in Rhodesia, elections based on universal adult suffrage and resulting in a Black Prime Minister took place.

The 1979 Constitution

The 1979 Zimbabwe-Rhodesia Constitution was the last phase of parliamentary development during the colonial era in this country. Under the Constitution, the House of Assembly's membership was raised to one hundred. Of these, seventy-two

were Black members elected by voters on the Common Roll; twenty were white roll constituency members while the remaining eight were white roll non-constituency members. At the same time, the number of Senators was increased to thirty. There were ten white Senators, ten Black Senators, and ten Senator Chiefs, five from Mashonaland and five from Matabeleland.

Although there was now a Black majority in both Houses of Parliament, the Government was still colonial. There was a continuing stranglehold on the real instruments of power service. The Government was deprived of the power to govern in the interest of the majority and the Legislature was denuded of the means of altering the *status quo*.

Therefore, it can be clearly seen that successive Constitutions entrenched powers in the hands of the minority leading to armed struggle, the Lancaster House Constitution and the present Parliament.

Contributed by the House of Representatives

THE AUSTRALIAN POLITICAL BROADCASTS AND POLITICAL DISCLOSURES BILL 1991

John Carter

A bill passed by the Australian Parliament in December, 1991, providing, among other things, for the restriction of political advertising on television and radio was perhaps the most controversial piece of legislation considered by the 36th Parliament.

The bill proposed to amend four Commonwealth Acts relating to broadcasting radio communications and electoral matters. Political argument was sharp. Opposition to the bill came from a wide spectrum of interests, the focus being a perceived threat to the right to 'free speech'. While the bill was of considerable interest to parliamentary observers, there was heightened community interest because the legislators strayed into largely uncharted constitutional territory. Less than a year after the passage of the bill the High Court, in a landmark decision, declared the law to be an invalid exercise of Parliament's legislative power. This article briefly traces the history of the Political Broadcasts and Political Disclosures Act from its beginnings to its demise.

A Committee recommends...

The conduct of Federal elections in Australia has been a matter of justifiable pride, at least so far as the setting of electoral boundaries and the administration of the ballot is concerned. In common with a number of other countries, however, the cost to parties of political campaigning has risen dramatically. For example, the cost of political party advertising for the 1987 election was over \$9 million, an increase of around 100% on the figure for 1983. Expenditure for the 1990 elections was up by 52% above the 1987 figure. This was a matter of concern to the Parliamentary Joint Standing Committee on Electoral Matters which began an inquiry into the conduct of the 1987 general election in October, 1988. In its report, entitled *Who pays the piper calls the tune*, tabled in the Senate and the House of Representatives on 7 August, 1989, the Committee drew attention to the possibility of corruption entering Federal politics because of the high cost of political campaigns. Most of these high costs were attributed to television advertising. The argument developed by the Committee is a familiar one: the high costs of advertising forced parties to rely on corporate donations, with the expectation that these would be reciprocated with political or economic favours.¹

The Committee's major recommendation was that television networks allocate free time to parties during election campaigns. This 'free time' would come from that time given over by television stations for self promotion. In other words, the Committee was mindful that commercial advertising time should not be affected. This recommendation—mild in comparison to later government proposals in the bill—was controversial enough. Television networks were incensed by an additional recommendation that apart from the 'free time', there would be no paid political advertising, which was a lucrative source of revenue to the networks. Furthermore, 'free time' would be available only to parties which fully disclosed their sources of funding.

While the Government seized upon the substance of the report and echoed fully its concern about corruption, it did not follow the Committee's recommendations. The Government's intentions went much further. In March, 1991 the Government announced that it intended to introduce legislation to ban all politi-

cal advertising.

There was an immediate outcry. Opposition appeared to be more intense than support, which may have been expected when vested financial interests were involved. The debate did not, as might equally have been expected, focus on these interests. The threats to freedom of information and freedom of speech were issues immediately raised, and this line of opposition was to be vindicated in the High Court. There was some media speculation that the principal rationale for the legislation was the poor state of Labour Party finances. The television networks, whose financial states ranged from profitable to parlous, were understandably incensed. The government was embarrassed by the leaking of a report from the Human Rights Commissioner which suggested the measure to be inconsistent with Australia's obligations under the International Covenant on Civil and Political Rights. A motion before the Senate to have the report tabled was narrowly lost. Even before the legislation was introduced the, New South Wales Government announced its intention to challenge any such law in the High Court on the grounds that legislation which sought to regulate the conduct of state elections was beyond the power of the Federal Parliament.

The Bill before the House of Representatives

The Political Broadcasts and Political Disclosures Bill, 1991, was introduced in the House of Representatives on 9 May by the Minister for Transport and Communications. In speaking to the Bill, the Minister, Mr. Kim Beazley, MP, spoke of it as representing "a comprehensive response to the threat of corruption and undue influence which hangs over the political process"².

The Minister complimented the Joint Standing Committee on Electoral Matters for identifying problems of financing political campaigns and the potentially undesirable influence of major donors, but implied that the Government was prepared to be much tougher than the Committee's recommendations proposed. There would be no half measures. The Government rejected the Joint Committee's proposal to have broadcasters set aside free time to parties and candidates on the grounds that it would unfairly advantage major parties. The Government also rejected the Joint Committee's proposal to limit advertising expenditure because such

schemes were easily evaded. Instead, the Government was prepared to take the stronger step of prohibiting the broadcasting of political advertisements.

The Government's justification for a complete ban was the exorbitant cost of broadcast advertising, a factor precluding all but the most powerful interests from paid access to the airwaves. The Minister argued that this move was consistent with article 19(2) of the International Covenant on Civil and Political Rights which required parties to the agreement, such as Australia, to guarantee the right of freedom of expression. The Minister argued that Article 19(3) provided for those rights to be limited in the interests of public order. Specifically, this was interpreted as including circumstances where there was potential corruption and undue influence on the political system.

The banning provisions of the bill included political matters aimed at influencing voting intentions during Federal, State, Territory and local government elections. In addition, government advertising for the purposes of publicising government initiatives or actions and which could be construed as 'political' would also be banned during election periods. This ban was intended to ensure that incumbent governments enjoyed no advantage over their opponents.

The Minister assured the House of Representatives that the proposed legislation would have no effect on the broadcast of *bona fide* news reports or current affairs programs. Nor would it affect editorial content or the conduct of the popular 'talk-back' radio programs which assume considerable importance during election campaigns.

The second part to the bill contained provisions to ensure disclosure of the sources of party funding. The existing law was to be tightened to require parties to lodge annual financial returns to the Australian Electoral Commission and requiring parties to identify donors of amounts exceeding \$1000. Tougher disclosure requirements would also affect 'third parties', those persons or organisations who, while not legally connected with a particular party, helped pay for its electoral expenses. 'Third parties' would now have to disclose their expenditure and have their identities revealed. The Australian Electoral Commission was also to be

given the power to make random audits of the accounts of political parties to ensure compliance with the disclosure rules. Reports on these audits would be published by the Electoral Commission.

Debate on the bill resumed on 30 May with a broadside from Opposition Shadow Attorney General, Mr. Andrew Peacock, MP, who labelled the proposed legislation 'disgraceful' and suggested that the bill's long title should read "a Bill to abolish freedom of speech in order to prop up a morally and financially bankrupt Labour Party".³

The substance of the Opposition attack on the bill was its denial of the rights of citizens "to seek and impart information and to participate in public affairs". Mr. Peacock challenged the Government to demonstrate that political advertising restrictions were necessary or reasonable. If a public order issue arose, then the appropriate response would be to toughen laws dealing with political donations and those relating to bribery and corruption. There were also several references by the Opposition to the low fortunes of the Labour governments in Western Australia, shaken by allegations of corruption and misgovernment and to the possible motives behind the legislation having more to do with the Labour Party's poor electoral prospects than with principles of fairness and a need to end the threat of corruption.⁴

The Leader of the Opposition, Dr. John Hewson, MP, spoke in the debate about gaining his party's support, and the support of the National Party, to disclosure provisions similar to those contained in the bill before the House.

We put behind us 40 years of policy at least in terms of both our parties, and we made a very genuine attempt to raise that issue and to support the moves of the Government.... But the Prime Minister was not prepared to take that genuine offer.⁵

Dr. Hewson concluded by branding the bill as one designed to give the Government 'a slim chance of being returned at the next election.... [and] to stop us running advertisements on radio and television that...draw attention to the inadequacies of this Government.'⁶

Before he concluded his speech, however, Dr. Hewson referred to the arena where the real parliamentary battle over this bill would be fought—the Senate—where the Government would need the support of the Democrats to have the Bill passed. Anticipating this support, Dr. Hewson attacked the 'disgraceful performance' of the Democrats on the issue and the 'misconception' of Opposition policy on disclosure of political donations. Dr. Hewson also challenged the Democrats to move amendments proposing more stringent provisions in the legislation dealing with disclosure.

The Political Broadcasts and Political Disclosures Bill was declared urgent by the Government on 28 May notwithstanding its controversial nature, or the fact that it was debated in the House of Representatives only one day. Opposition amendments proposed during the Committee stage of the debate were rejected by the Government. They would have had the effect of substantially altering the intention of the Bill. Three Government amendments to the Bill were agreed to. The Bill had its third reading on 30 May.

The Senate treatment

The Bill was introduced into the Senate on 4 June, 1991, by the Minister for Justice, Senator Michael Tate. Already, some anomalies in the proposed legislation were being addressed by the Government. Senator Tate indicated that the Government would, if necessary, exempt from the operation of the ban the reading of newspaper advertisements over publicly supported radio services for the blind. Other concessions were to follow. Debate on the bill continued into December, and the government proposed 37 amendments in response to Opposition and Democrat demands and to community pressures.

The Senate looms as the crucial parliamentary arena in the passage of contentious legislation. Governments only infrequently command majority support among the seventy six Senators. A minor party, the Australian Democrats and two independent Senators held the balance of power in the Senate in 1991 and their support, or the support of most of them, was essential to ensure the passage of the bill. The Democrats appeared to support the Government on the principle of the Bill, and their stance

appeared not to be affected by a prevailing leadership wrangle in the party.

Reference to a Senate Select Committee

The Senate normally deals with contentious legislation by sending it to Standing Committees. Even so, a motion to refer the Bill to the Senate Standing Committee on Legal and Constitutional Affairs was defeated on 20 June.

When the Senate returned after the winter recess, the Government having been subjected to considerable pressure over the Bill, moved, on 13 August, 1991, a motion to refer the Bill to a Select Committee. At the same time the Government announced the further concession that a broadcasting ban would apply only to election periods, not the whole year round as was previously the position. A Committee of six Senators was appointed on 16 August and Senator Chris Schacht was elected Chairman of the Senate Select Committee on Political Broadcasts and Political Disclosures.

The terms of reference of the inquiry noted that commissions of inquiry in New South Wales and Queensland had identified the need for comprehensive disclosure of party political finances and the need to reduce the increasingly high cost of election campaigning to protect the political system from the threat, of corruption and undue influence. The Committee was ordered to report by 5 November, 1991.

The Committee received 127 submissions from interested parties and individuals. More than thirty witnesses gave evidence to the Committee at public hearings held in Parliament House. These included officers of the Attorney-General's Department, the Trade Practices Commission and the Australian Broadcasting Tribunal. Political party officials, representatives of public opinion poll organisations, television network executives and academic specialists in the field also gave evidence.

In addressing the terms of reference, the Committee first considered the degree of risk to the integrity of the political system posed by the absence of election advertising controls. The Committee heard evidence of overseas scandals involving improper practices related to election funding. The Watergate scandal and

the Recruit scandal in Japan were noted. Australian examples revealed by the Fitzgerald inquiry into illegal activities in Queensland, and an inquiry into land development in New South Wales were also cited. In each of these cases the issue was concealment of political donations, and some Committee members saw no connection between these cases and the high cost of political advertising. What was in dispute was the question of whether the proposed advertising restrictions represented a proportionate means of addressing the problem.⁷ After hearing a range of evidence a majority of the Committee agreed that the financial vulnerability of political parties was sufficiently serious to require action to address the high costs of campaigning and to provide better safeguards against the concealment of influence purchasing.

The human rights issue was the major element in the Committee's consideration of restrictions on political advertising. The majority of submissions argued that the bill would curtail freedom of speech and expression. This was the view of some academic and most media witnesses. It was also the view presented to the Committee by the Human Rights Commissioner who spoke of its effect on the disabled and citizens without a good knowledge of English. However, two political scientists argued that because not all groups and community interests had equal access to the broadcasts media, a ban on televised advertising might in fact safeguard aspects of Australian democracy put at risk by televised political advertising. The Committee also noted evidence that democracy in some of the advanced nations of western Europe appeared to be unhampered by the absence of political advertising and that this issue had never been raised in any human rights forums. After hearing a range of evidence on this issue, a majority of the Committee agreed that the proposed ban on advertising during election periods was, on balance, consistent with the democratic process and did not infringe upon the right to free speech.

Public attention to the Bill during its controversial passage mostly centred on those aspects related to restrictions on political advertising. The Opposition had early on indicated its support for the idea of full and open disclosure of donations to political parties. Liberal Party officials confirmed this at hearings of the Senate Select Committee, although they expressed the view, as did National Party officials, that intimidation of donors by 'unfriendly

governments' was always a possibility. Reference was also made to the advantage given to the Labour Party through affiliation fees paid to it by trade unions. The Committee did not accept that intimidation was a serious possibility, but recommended increased penalties for the offence of hindering or interfering with a persons' right to make a gift to a political party.

The Committee also canvassed views about public funding of election campaigns. In giving evidence to the Committee, the Liberal Party and the National Party (usually in coalition, whether in government or opposition) put the view that taxpayers should not be forced to subsidise political parties. The principle of public funding was accepted by the Labour Party and the Australian Democrats. The Committee recommended no changes to existing public funding arrangements.

The report of the Committee was tabled on 28 November, 1991. The majority report, signed by three government Senators, contained fifteen recommendations for amendments to the Bill. The most important of these related to the retention of 'free time' on the ABC and commercial broadcasting networks, strictly limited to a 'talking head' format, and to the tightening of rules relating to disclosure of gifts and electoral expenditure.

Opposition Senators on the Committee, Senator John Olsen and Senator Rod Kemp presented a dissenting report. They reported their opposition to any ban on political advertising and accused the majority report of selective use of evidence. This was also the view expressed in her minority reportably by Democrat Senator Cheryl Kernot.

Debate on the bill resumed in the Senate on 3 December, 1991 at which time the Manager of Government Business in the Senate declared the bill urgent and moved that the Senate consider the bill urgent. The Leader of the Opposition, Senator Robert Hill, moved the suspension of Standing Orders to debate the urgency motion and to attack the agreement between the Government and the Democrats to provide for curtailment of debate. The Senate voted for the guillotine, allowing for two days of debate.

The theme of the debate in the Senate followed that of the House of Representatives. The Opposition condemned the recom-

mendations of the majority report of the Select Committee, echoing the view expressed in the minority report of the Select Committee that the recommendations did not reflect the weight of evidence provided by witnesses. Government Senators referred to the customary bans on political advertising in comparable democratic countries and referred to the findings of various royal commissions and corruption inquiries as justification for actions which removed the temptation to receive influence payments, namely the high cost of television advertising. In response to this, Opposition Senators pointed to the links between the government and corrupt practices in trade unions. The debate on 3 December, which began in the morning, continued through the day (with some breaks for other business) and through the night. The motion for the second reading found the Senate dividing at 8.15 am on the morning of 4 December, one of the longest sittings in recent years in the Senate.

The bill was debated in Committee of the Whole on 4 December and extensively amended. Thirty government amendments were agreed to, three Opposition amendments agreed to and seven amendments initiated by the Democrats agreed to. Nineteen other proposed amendments failed to pass. The period of time allotted to debate on the Bill was twice extended. There were several procedural motions relating to debate on the Bill, including a dissent from the Chairman of Committee's ruling. In all, over 40 hours were spent in the Senate in debate on the Bill up to its third reading in the afternoon of 5 December, 1991. Senate amendments were agreed to by the House of Representatives and the Bill was given the Royal Assent on 16 December, 1992. Within a month the new Act of Parliament was under challenge in the High Court.

The High Court decision

Eight television licensees challenged the legislation in the High Court on 14 January, 1992, as they had always warned they would, claiming that it was unconstitutional because it breached an implied constitutional right of free speech and effectively gave the Commonwealth the ability to acquire private property—radio and television air time—without just compensation. Another plaintiff was the State of New South Wales which contested the consti-

tutionality of the legislation on the grounds of its substantial interference with the function of States.

The case was heard in March, 1992 and the decision was handed down by the full bench of the High Court, without written judgments, on 28 August. By a majority of six to one the Court ruled that those sections of the Act relating to prohibitions on political advertising were invalid.

Opposition Senators and Members were understandably elated by the High Court's decision, but the Government managed to put on a brave face. Senator Nick Bolkus, Minister responsible for electoral matters was quoted as saying:

"It's the first step toward entrenching in our legal system respect for rights and in this case it's for freedom of communication in political matters... I suppose, if you have to lose, it's a good way to lose... I think legislatures and governments in the future have to now take into account a new factor"⁸.

The majority view, when written judgments were handed down on 30 September, 1992, was largely summed up in the judgment of Sir Anthony Mason, the Chief Justice:

"In a representative democracy, public participation in political discussion is a central element of the political process. It is necessary, therefore, that the implied freedom of communication extend to all matters of public affairs and political discussion, notwithstanding that a particular matter at a given time may appear to have a primary or immediate connection with the affairs of a State, local authority or Territory and little or no connection with Commonwealth affairs. Experience has often demonstrated that, although freedom of communication may have some detrimental consequences for society, the benefits it brings to an open society generally outweigh them. The Court should be astute not to accept at face value claims by the legislature and the Executive that freedom of communication, unless curtailed, will bring about corruption and distortion of the

political process."¹⁰

The Court did not identify a general right of freedom of expression, but did recognise that both the text and structure of the Constitution, which establishes a representative democracy, necessarily imply that there must be free political discourse in order for people to freely exercise their democratic right to vote.

Another insight into the thinking of at least one of the members of the High Court on this matter was provided by Justice Toohey speaking at a constitutional conference in Darwin. Toohey referred to the Diceyan view of Parliament's role in checking the arbitrary power of executive government; a view no longer accepted by those who stood in judgement over laws made by Parliament. There was according to Toohey :

"an increasing recognition of the tension between deference to the will of Parliament as expressed in legislation and the maintenance of the rule of law, as Parliaments are increasingly seen to be *de facto* agents or facilitators of executive power, rather than bulwarks against it."¹¹

Justice Toohey implied that regular elections could no longer be regarded as sufficient safeguards against the possibility that legislation might infringe basic human rights. Court decisions in Britain and New Zealand quoted by Mr. Justice Toohey have, in recent times, contained judgments asserting that the legislative powers of Parliament do not include the right to override common law rights deeply embedded in the common law.¹²

Justice Toohey's comments on the possible development of an implied Bill of Rights in the Constitution provoked some heated response from parliamentarians. Senator Schacht, who chaired the Senate Select Committee on Political Broadcasts and Political Disclosures, described the High Court's decision as 'political sophistry of the worst kind' during debate in the Senate on a Matter of Public Importance. Rejecting a theory of implied rights, particularly as ruled upon by an unelected judiciary, Senator Schacht said that if the court was determined to make political decisions then it would have to be made answerable to the public.¹³ He received no support for this view from the Attorney-General, Mr.

Michael Duffy, MP, particularly in the matter of public accountability, given that the independence of the judiciary was a fundamental element in constitutional government.¹⁴

The strongest attack came from Senator Michael Tate, Minister for Justice, who in a speech in the Senate rejected as 'absolute nonsense' the idea that the High Court could usurp the role of the Parliament in defending civil liberties. "The way in which the High Court constructed its judgement last week does not give any confidence that common law judges have the capacity to protect the rights and liberties of the Australian people".¹⁵

The shadow Attorney-General, Mr. Peter Costello, MP, also weighed into the argument in an address to the Australian Institute of Administrative Law. He welcomed the High Court's decision in striking down the advertising ban in the Bill, but it is interesting that his sentiments—if not his style—echoed those of Senator Schacht when he said :

Those who make controversial political decisions should be subject to direct political accountability. They should be subject to election and public scrutiny. If the Parliament does not reassert an interest in defending human rights and if the Court takes up that role it will inevitably politicise the role of the Court and ultimately damage its prestige.¹⁶

Conclusion

The saga of the *Political Broadcasts and Political Disclosure Act 1991* was significant in the way that it focussed on the blurred demarcation in the protection of human rights between Parliament and the courts. The debate in Parliament contained several ironic twists. The ruling Labour Party has been much more active than its opponents in pressing for the inclusion of a bill of rights in the Constitution, yet on this occasion the Opposition appeared to have the best of the argument on the score of civil rights. Some government members, however, saw the rights issue from a different perspective: an advertising ban as an attempt to redress the balance of rights in favour of those with little political influence at the expense of powerful interests, whose influence in any case, would be only marginally diminished.

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THE PARLIAMENTARY SYSTEM IN CANADA

Wolfgang Koerner and Brian O'Neal

Introduction

If asked to describe the basic form of Government in their country, most Canadians would probably reply that Canada is a 'democracy'. This is undoubtedly true in both—a formal and a working sense. Canada belongs to the group of nation-states which share similar Western liberal-democratic traditions and practices. But to say the modern Canadian governance is democratic provides only a canvas on which there is a rich and complex picture with many special features to be filled in.

Canada remains in legal terms a constitutional monarchy. Most importantly, Canada is also a federation, not a unitary state, which means that sovereign powers are divided between two levels of Government. Canada is a former British colony and has a parliamentary system modelled after that of Westminster. At the same time, one Canadian province, Quebec, part of what was once New France, has retained its French system of civil law. Canada is today a member of both the Commonwealth and *la Francophonie*. In addition to these continuing European legacies, the Canadian, political and legal systems have been strongly in

fluenced by closer North American developments. Indeed aspects of Canadian politics and Government are often defined in comparison to the powerful example of the political culture of the United States.

Canadian Constitutional and Federal Structure in Transition

The most important written Canadian constitutional document is the *British North America Act of 1867*, now called the *Constitution Act, 1867*. This Act of Canadian 'Confederation', passed by the United Kingdom Parliament, established the 'Dominion' of Canada as a semi-independent federal state under the Imperial Crown.¹ The original parties to this Dominion were only four of the present ten provinces: the two Canadas—Upper Canada (Canada West, which became Ontario) and Lower Canada (Canada East, which became Quebec)—and the Maritime provinces of Nova Scotia and New Brunswick. Subsequently new provinces entered Confederation in the following order : Manitoba (1870), British Columbia (1871), Prince Edward Island (1873), Alberta and Saskatchewan (1905) and Newfoundland (1949).

Canada's written Constitution has evolved in some very fundamental ways since 1867 and it is important to bear in mind that many aspects of Canadian constitutional practice are not explicitly written out or to be found in a single document. Civil rights protections such as *habeas corpus* and the whole inherited tradition of British common law are part of the Canadian constitutional framework. Similarly, parliamentary traditions and the conventions of Cabinet Government have been passed on, albeit much adopted, on the basis, specified in the preamble to the BNA Act, that Canada would have "a Constitution similar in principle to that of the United Kingdom". The various constitutional acts from 1867 to 1982 are silent on some key operations of responsible party Government familiar to all Canadians, which are nevertheless entirely constitutional.

Canada's constitutional independence from Great Britain has evolved over a long period of time. The *Constitution Act, 1867* made no provision for an independent Canadian foreign policy or for a made-in-Canada amending procedure. A Supreme Court was established only later in 1875 and did not become the final court of appeal and constitutional interpretation until 1949.² Canada

gained full foreign policy autonomy under the 1931 Statute of Westminster. However, the federal jurisdiction over some aspects of international policy has remained unclear and contestable. The Fathers of Confederation never anticipated such developments, nor could they have foreseen other major areas of contemporary public policy (e.g., environmental regulation) which have given rise to disputes between Ottawa and the provincial capitals.

The aspect of Canadian independence which eluded constitutional reformers the longest was finding a homegrown procedure for amendment. Success was finally achieved with the 'patriation' of the Constitution in 1982.³ The current Constitution entrenches several amending formulas which apply to different classes of subjects. The most important are the '7/50' formula—approval by the federal Parliament and the Legislatures of seven provinces representing at least 50% of the population—and the rule of unanimity. The latter applies to a very short list of subjects including the monarchy, the use of English and French, and changes to the amending formulas themselves. In both cases the unelected federal upper House, the Senate, has only a suspensive veto of 180 days over constitutional amendments passed by the House of Commons. In addition, Parliament and the provincial Legislatures can make changes to their own governing structures by ordinary status.

The *Constitution Act, 1982* did much more than private and consolidate Canada's written Constitution with amending procedures. It also entrenched a Charter of Rights and Freedoms, strengthened provincial control over natural resources, and included provisions with respect to aboriginal rights and the principle of fiscal equalization among the provinces. The addition of the Charter has had by far the greatest continuing impact. The Charter affirms not only individual civil-political rights, but also equality rights (which came into force in 1985), official language rights and minority language education rights. These rights are subject to the courts' interpretation of such reasonable and lawful limits as can be "demonstrably justified in a free and democratic society." The Charter itself can be amended using the '7/50' formula. However, a controversial provision in the Constitution, known as the 'notwithstanding clause,' allows Parliament or any provincial Legislature to pass a law expressly overriding the Charter's

guarantees of fundamental, legal, and equality rights (except that prohibiting discrimination based on gender) for a period of no more than five years, though such laws can be re-enacted indefinitely.

The major unresolved issue flowing from the 1982, Constitution has been that one provincial Legislature, the Quebec National Assembly, stood alone in refusing to give its assent. Quebec was also left without any specific right of veto over future constitutional changes. Subsequent efforts to accommodate Quebec's concerns and to obtain its voluntary consent resulted in a tentative federal-provincial agreement, reached in the spring of 1987, on an enlarged package of constitutional reforms, commonly referred to as the Meech Lake Accord. However, in the end, ratifying the *Constitutional Amendment, 1987* by the three-year deadline under the requirement of unanimity, proved to be as controversial as the 1980-82 process. Ultimately, the Accord failed in June, 1990 leaving further constitutional reform at an impasse.

Attempts to proceed with constitutional renewal in the wake of the failure of the Meech Lake Accord have proven equally difficult. Following the demise of the Accord, Governments at both the provincial and federal levels engaged in lengthy consultations with Canadians in an effort to produce a set of reform proposals more inclusive than the Meech Lake Accord which dealt specifically with Quebec's constitutional needs. Known as the 'Canada round', the subsequent stage of constitutional negotiations produced a package of reform proposals, the Charlottetown Accord (after the provincial capital of Prince Edward Island where the final agreement was signed in September, 1992), agreed to by all of the provincial Governments and the federal Governments as well as the leaders of Canada's aboriginal peoples. If adopted, the Charlottetown Accord would have resulted in some profound changes to Canada's parliamentary system, including an elected Senate at the Federal level. In order to make the process of constitutional reform more democratic, this set of proposals was placed before the Canadian people in a national plebiscite held on 26 October, 1992, an unusual procedure in Canada's political system (Canada has had only two national plebiscites in the past, neither of them concerning the Constitution). After a six-week campaign during

which all sides of the issue were explored and debated, Canadians voted in large numbers against the proposed reforms, leaving the constitutional *status quo* intact. While it is doubtful that any further attempts will be made to amend Canada's Constitution in the near future, Canadians and their democracy have benefitted from the open discuss that was held and it is all but certain that future constitutional amendments will involve the direct participation of the Canadian people.

Nevertheless, in the aftermath of the failure of a second major attempt to reform Canada's Constitution, the Canadian federal system remains in question. The basic proposals for 'renewed federalism' remain the same. Some envisage a further decentralization of powers from the centre to provincial Governments or to 'regions', but there is also support for a strong central Government with the capacity to pursue renewed national purposes. Some also argue for 'asymmetrical federalism' in which one or more provinces, and notably Quebec, would exercise greater powers than the rest. But others insist on maintaining the 'equality of the provinces' as a federal principle.

The division of powers at Confederation was weighted in favour of the central Government. Section 91 of the *Constitution Act*, 1867 gives the Parliament of Canada exclusive jurisdiction over, *inter alia* : defence, the regulation of trade and commerce, public debt, banking, currency and monetary policy, taxation by any mode, criminal law, citizenship, and Indian affairs. Moreover, Parliament enjoys a general residual power to make laws for the 'Peace, Order and Good Government of Canada' (although several other centralist powers have fallen into disuse). Section 92 lists areas of exclusive provincial jurisdiction, including : property and civil rights, municipal affairs, the administration of justice, and matters of a purely local nature. Education, dealt with separately in section 93, gives control to the provinces but remains a federal role in protecting religious minority educational rights. Minority language rights now have the added protection of the 1982 *Charter*.

More than a century of judicial interpretation and the tremendous growth of the administrative and welfare state have greatly affected the balance established in the original division of powers

Expanding state regulation and intervention have at times strengthened the role of the federal Government. For example, a 1940 constitutional amendment gave Ottawa jurisdiction over unemployment insurance. The federal Government's wartime powers were also very intrusive. But recent decades have seen major growth as well in the activities of provincial and municipal Government, which have the primary responsibility for education, health and welfare, and the provision of many important services. Ottawa and the provinces share concurrent jurisdiction over some areas such as agriculture and the environment, although if laws conflict the federal power is generally paramount. In other areas, such as fisheries, offshore mineral rights, communications, immigration, taxation, etc., there is a complicated history of federal-provincial negotiation, competition and sometimes vigorous opposition.

While Quebec and the richer provinces in particular have become more asserting in regard to their powers, Ottawa still has a major redistributive and interventionist role through. Its equalization payments to poorer provinces and through the use of its sweeping spending power to help share the costs of key social programmes in areas of provincial jurisdiction. Extensive federal-provincial arrangements have emerged to govern established programme financing. However, there is controversy and over attaching conditions (*e.g.*, adherence to 'national standards') to federal contributions and over reducing federal transfers on grounds of fiscal restraint or for other reasons. There are a number of other important areas of federal-provincial diplomacy, up to and including the unique Canadian invention of the 'First Minister Conference,' which brings together the Prime Minister and the ten provincial Premiers. While these mechanisms have become critical to the operation of contemporary Canadian Government as yet they do not have any formal constitutional status.

Ultimately, there may have to be changes in the federal division of powers and in the central institutions of Canadian Government. The balance has already been shifting a practice, reflected in the much faster growth in provincial and local Government expenditure relative to federal Government expenditure in recent years. Spending by all levels of Government in Canada increased from 20.7% of Gross Domestic Product (GDP) in 1951 to

43.1% in 1987. But while direct federal spending increased by 58% during this period (from 13.9% to 22.0% of GDP), provincial and local spending increased by 206% (from 8.9% of GDP to 27.2%). Given this trend, provinces and municipalities have sought additional sources of revenue commensurate with their responsibilities. Federal transfers to provinces make up about one-fifth of provincial revenues, but this proportion has been declining since the early 1960s, a trend which is likely to continue along with efforts to control the size of the federal debt. Inter-governmental relations have become an increasingly important focus of debate over the proper and efficient functioning of Canadian Government.

Another growing challenge to all Governments in Canada comes from the wider environment of the political system and from their own Legislature and electorates. Parliamentary reforms have been sought to check 'executive dominance' and to make Governments more accountable to the people's elected representatives. Dissatisfaction with 'executive federalism' in which heads of Government effectively decide policy has led to a search for ways to achieve greater and more representative public input in national decision-making, federal-provincial and regional affairs, and processes of constitutional reform. In short, Government in Canada is being put to the test as never before.

We turn now to a brief summary of the main elements which make up the Government of Canada. The organization of Government is also outlined in the chart in Figure 1 below. It shows the basic relationship of the Crown and the executive, legislative, and judicial branches of Government.

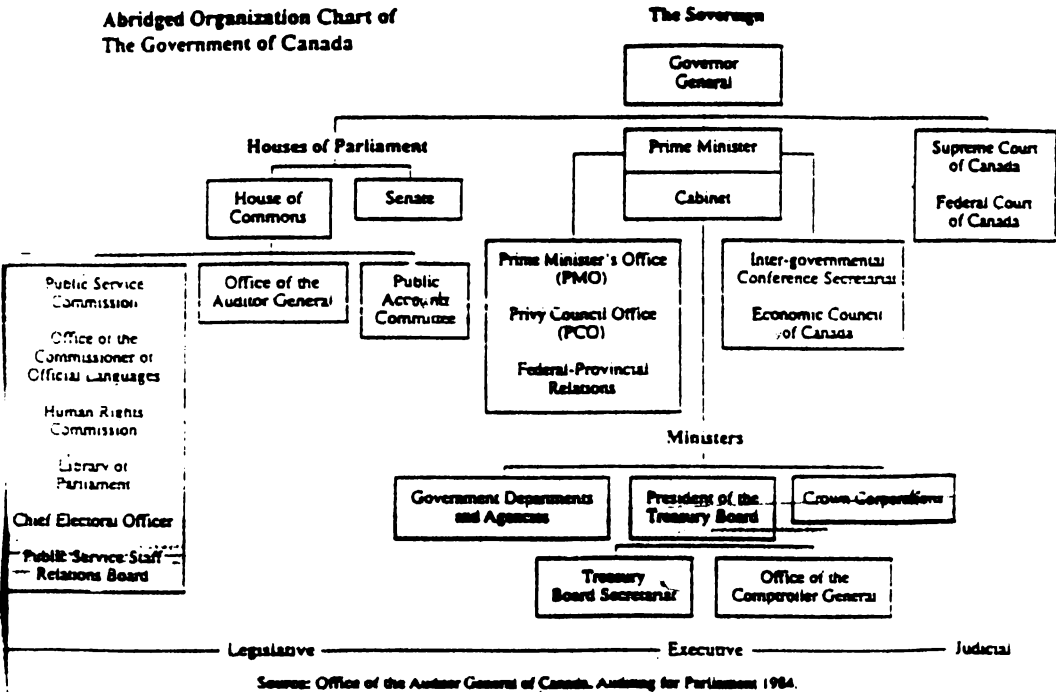


Figure 1

Source : W.L. White, R.H. Wagenburg, and R.C. Nelson, *Introduction to Canadian Politics and Government*, fifth edition, Holt, Rinehart and Winston of Canada, Toronto, 1990, p. 134.

RESPONSIBLE GOVERNMENT IN CANADA

A. The Executive Branch : Cabinet Government

The role of the state has grown enormously in the twentieth century and with it the executive power of Government. In Canada, when we speak of 'the Government' we almost certainly mean the Cabinet headed by a Prime Minister who appoints its members from among his supporters in the House of Commons, usually including also one or more members of the Senate. In contrast to a congressional system, there is no strict separation of the executive and legislative branches. The Prime Minister and his Ministers (except for Senators) are themselves Members of Parliament who have been elected to single-member constituencies. They constitute the political executive. The essence of responsible parliamentary Government is that this executive is directly and regularly held to account for its actions by the elected representatives of the people who sit in the House of Commons.

However, the Prime Minister is not the Head of State in Canada, and the word 'Cabinet' appears nowhere in the Constitution. The formal executive remains monarchical, with sovereign authority vested in the Queen of Canada. Except on very rare occasions, his authority is exercised by resident representatives—the Governor General in Ottawa and the Lieutenant Governors in the provinces. Members of the political Cabinet are formally appointed to the 'Queen's Privy Council for Canada' (on the recommendation of the Prime Minister) and sworn in as Ministers of the Crown. In practice, however, the residual functions of this monarchical structure are largely symbolic and ceremonial. Actual power is wielded by the Privy Councillors who are members of the Cabinet chosen by a Prime Minister, who is almost invariably the leader of the political party with the most seats in the House of Commons. The diagram in Figure 2 outlines the key lines of authority within the executive branch.

The Cabinet system has undergone major growth and structural innovation since the days of Canada's first Prime Ministers. Certain principles, however, continue to apply to the composition of Cabinets, notably that of a balance of regional and English/French representation—something which is not always possible if the governing party's M.P.s are concentrated in only a few re-

gions. Nowadays there is also more sensitivity to gender and minority balance, although women, visible minorities, and those of non-British or French origin continue to be greatly under-represented. Another strong contemporary concern with respect to cabinet appointees is to eliminate any real or perceived conflicts of interest in how they conduct their portfolios. There is little public tolerance for fixing private interests and public trust.

CANADA'S EXECUTIVE BRANCH OF GOVERNMENT

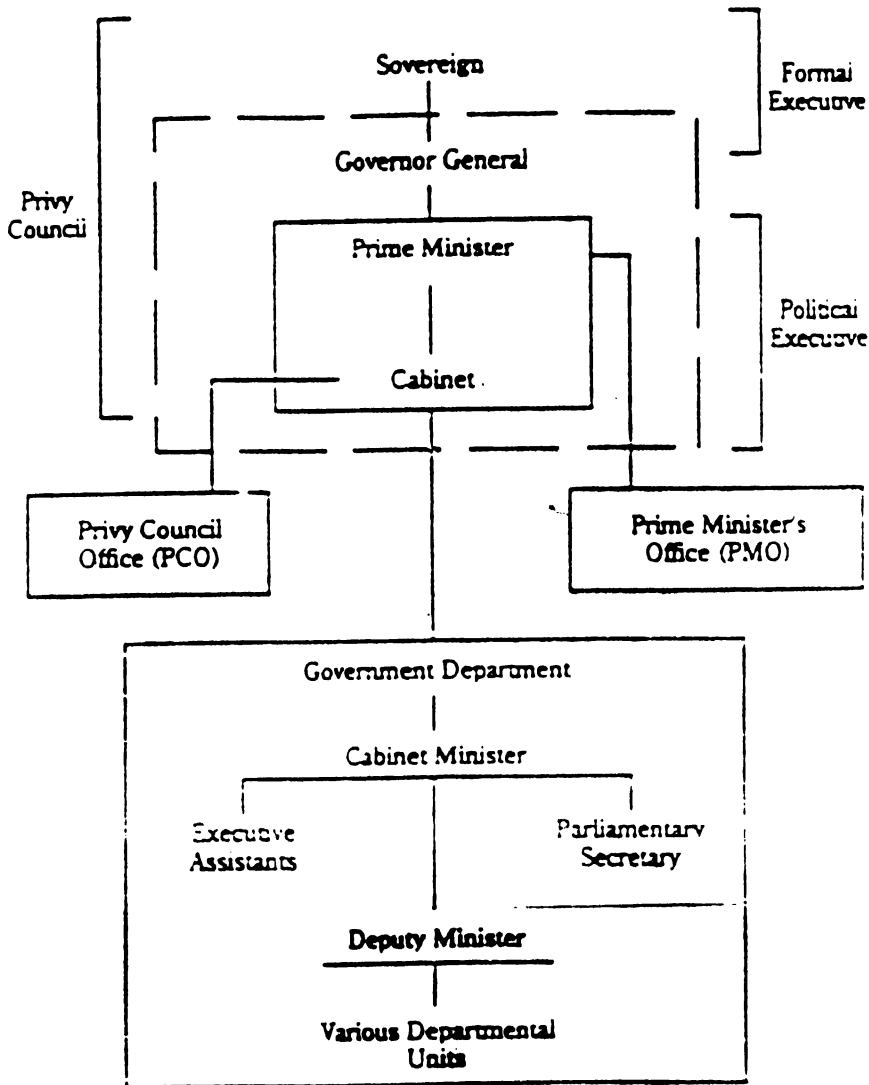


Figure 2

Source : Ronald Landes. *The Canadian Polity: A Comparative Introduction*, third edition, Prentice-Hall Canada Inc., Scarborough, 1990, p. 120.

As Cabinets have grown in size along with the complexity of the tasks assigned to them, their structures have become more hierarchical and bureaucratic. Recent cabinets have grown up to 40 members, but a much smaller number of Ministers wield most influence within the tightly-managed collegial Cabinet system, at the apex of which stands the Prime Minister. The key policy-making committee of Cabinet is "priorities and planning," chaired by the Prime Minister. The full plenary Cabinet in fact meets only rarely. The increasing size, of the "inner cabinet" of senior Ministers has led to further streamlining of Cabinet decision-making. The Mulroney Government has introduced two small powerful committees for "operations" and for "expenditure review." In addition, the Minister of Finance and the president of the treasury board play key roles in setting the fiscal framework and carrying out the revenue and expenditure policies of the Government.

The cabinet structure of the Mulroney Government as modified in April 1991 outlined in the chart of Figure 3. The key organizational change in April major "shuffle" of Ministers was the creation of a new 18-member committee on Canadian unit and constitutional negotiations chaired by a new Minister responsible for constitutional affair who also becomes president of the Privy Council, a post reconstituted from the Trudeau Cabinet. The new Cabinet remains large at 39 members. Recent concern stemming from the extent of the Canadian deficit have prompted a search for ways to reduce federal spending. Included this effort is an examination of the size of Cabinet which may, in the near future, lead to reduction in the number of Cabinet Ministers and the consolidation of several Government departments. Advocates of this change also argue that decreasing the size of Cabinet will result in a more manageable and efficient form of Government, as well as substantial savings for the federal treasury.

A notable feature of recent Cabinets has been the structural and functional centralization of authority, with the Prime Minister and a small number of senior Ministers firmly controlling major policy and expenditure decisions. This political control is reflected in the growth of the Prime Minister's Office (PMO), headed by a powerful chief of staff, mirrored within the line departments by increased ministerial staffs headed by political chiefs of staff. As part of the effort to establish clear political lines of command,

the Mulroney Cabinets eliminated several time assuming central agency structures which had been introduced in the Trudeau Cabinets. Some have argued that this trend has also had the effect of downgrading the status and influence of the permanent Cabinet Secretariat, the Privy Council Office (PCO). However, the PCO still carries out executive support functions essential to any Government.

The Canadian Cabinet has many resources which it can call upon. It receives both political and expert advice from a phalanx of appointees, professional mandarins, and various advisory councils, in addition to listening to the views of parliamentary bodies and its own party caucus. Ultimately, though, under the Canadian system of Government, Cabinet alone bears full responsibility for the actions of the executive branch.

B. The Legislature : The House of Commons and the Senate

Generations of Canadian students have been taught that "Parliament is supreme". Notwithstanding the royal trappings of the formal executive, the concentration of power in the political executive, and the realities of the bureaucratic state, the essence of Canadian democracy is that in the end Parliament, representing all of the people, must decide. In particular, the popularly elected House of Commons is the great forum for national debate

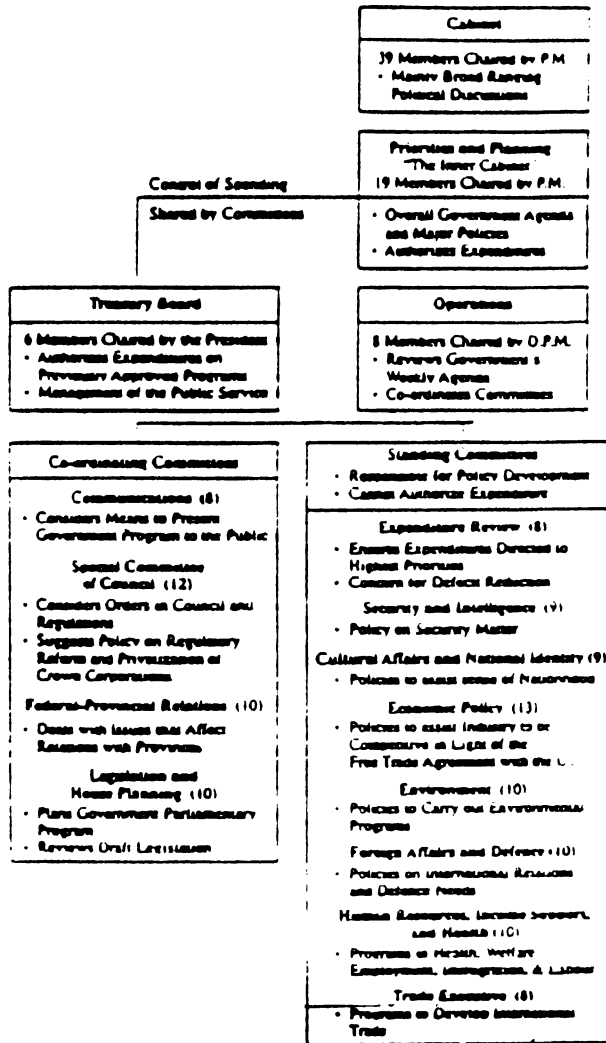
Figure 3

Source : W.L. White et al., *An Introduction to Canadian Politics and Government*, 1990, p. 136. As modified on 21 April 1991.

- Priorities and Planning increases to 24 members, including the P.M.:
- Operations has nine members, including the Government House Leader as chairman:
- A new 18-member committee on Canadian Unity and Constitutional Negotiations, chaired by the President of the Queen's Privy Council, replaces the committees on Federal Provincial Relations and on Cultural Affairs and National Identity.
- Economic and Trade Policy (Incorporating Trade Executive) increases to 17 members:
- Environment to 13 members:

Figure 3

Cabinet Committee Structure Under Prime Minister Brian Mulroney (Jan. 1989) *



— Human Resources, Social and Legal Affairs has 13 members.

and as such should have the last word. At least that is the theory. In recent years, however, the institution of Parliament has been the subject of a series of major and minor reforms. From a governmental perspective, it has been perceived as often too slow and inefficient. But from the perspective of Opposition parties and ordinary "backbench" members, it is more likely to be seen as in

need of strengthening than streamlining, in order that legislative roles and responsibilities catch up with the tremendous growth of executive capacities. The ability of the courts under the constitutional Charter of Rights to strike down laws passed by Parliament is a more recent challenge to the classical notion of parliamentary Government as supreme.

Since 1867, Canada has had a bicameral federal Legislature. The House of Commons, which currently has 295 members elected by simple plurality voting from single member constituencies, is the confidence chamber. This means that the Government (Cabinet) holds office only so long as it has the confidence of a majority in the House. The contemporary Canadian system is marked by adversarial politics (Government versus "loyal Opposition" and strong party and caucus discipline. The confidence convention can be a powerful tool in the hands of the House leaders and "whips" to enforce partisan solidarity on policy. But on rare occasions a confidence vote in the House can also bring down a Government, and that possibility may act as a check on the executive, especially in a situation where the governing party does not have a comfortable majority of seats. Constitutionally, no Parliament can last beyond five years. But otherwise Canadian Legislatures have no fixed terms. Generally, the Prime Minister (or provincial Premier) asks the Governor General (or Lieutenant Governor in the provinces) to dissolve the House and to call for elections.

The upper chamber of the Canadian Parliament, the normally 104-member Senate,⁴ has been the subject of more reform proposals than any other federal institution. But the Senate remains largely unreformed. It still retains a property qualification and vacancies are filled by prime ministerial appointments. Senators must now retire at age seventy-five, but otherwise their appointments are indefinite. While Senate seats are apportioned on a territorial basis, few Canadians have looked to the Senate as a strong defender of regional or provincial interests. Yet if the current Senate has few defenders, there is clear support for a second chamber as necessary to reflect the federal character of Canada, and significant support for the idea of an effective elected Senate based on equal provincial representation.

The existing Constitution gives the Senate major powers in theory. It cannot introduce "money bills," and it now has only a suspensive veto over constitutional amendments. But in other respects Senate approval is a firm requirement of the Canadian legislative process as illustrated in the diagrams in Figure 4. For years, the expected practice had been that the Senate would rarely if ever challenge the will of the governing majority in the elected House. However, under the Mulroney Government, with an Opposition party majority in the Senate until very recently, there have been some fierce confrontations between the two Houses which have given added impetus to the pressure for institutional reform.

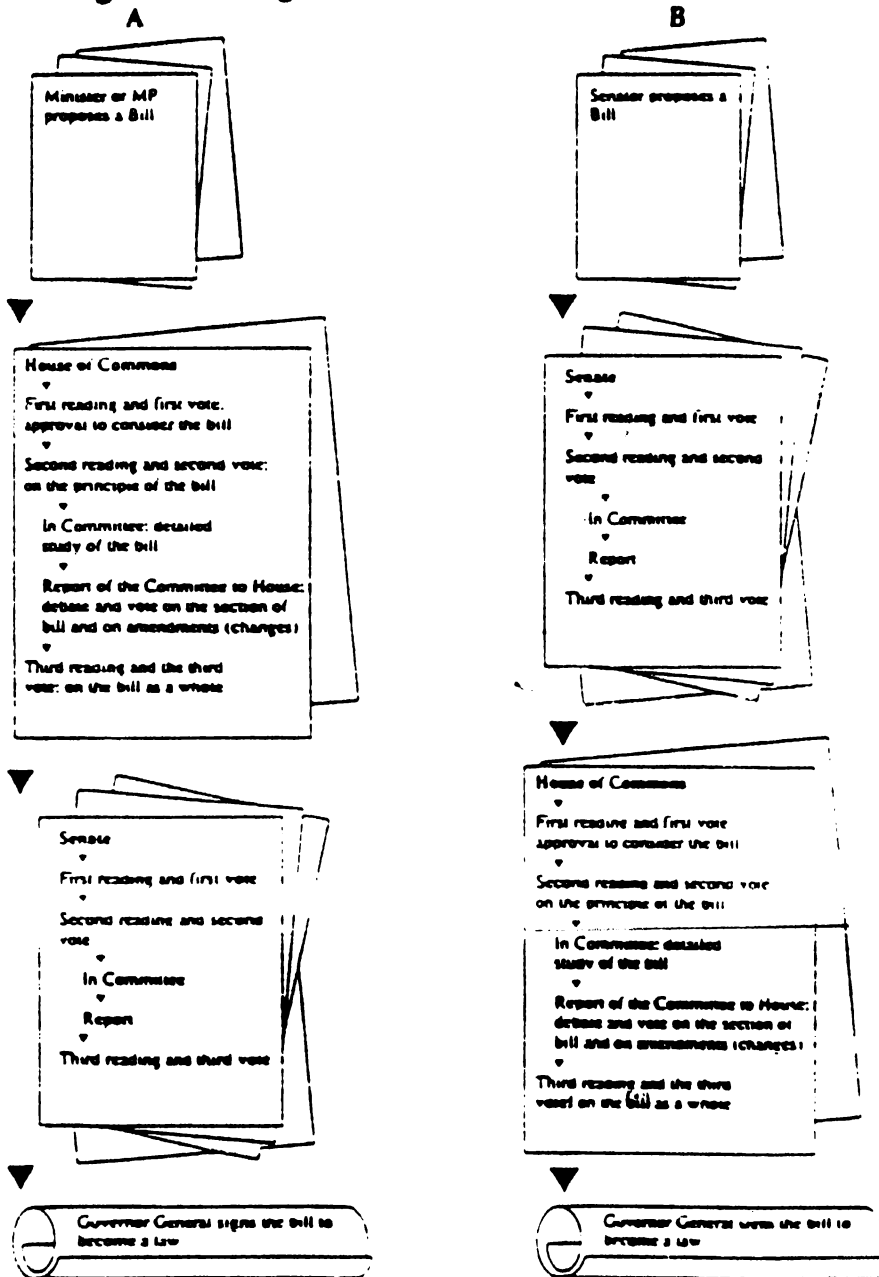
Some argue that the House of Commons is also not working as well as it should. A series of procedural reforms during the 1980s were designed to boost backbench members' opportunities for influence, for example, through legislative committees and a stronger, more independent standing committee system. However, there has been little relaxation in party discipline and policy is still much more shaped within the executive and the bureaucracy than it is through parliamentary deliberations. Major rule changes passed in April, 1991 (using a rule known as "closure" that limits debate) have yet to be tested in practice. Opposition members have claimed that the new rules will tilt the executive-legislative balance in favour of an already powerful executive. Few Canadians follow the details of such internal changes in Parliament's working environment. However, there are indications that many voters favour reforms to make Government more accountable and to make legislators more representative of and responsive to their wishes.

C. The Legislative Process⁵

Legislation introduced in the House goes through six basic stages: first reading, second reading, committee stage, third reading, consideration by the Senate, and Royal Assent. In most cases, first reading, third reading, and Royal Assent have become mere

Figure 4

Legislative Stages in the Canadian Parliament



Source : W. L. White et al., *An Introduction to Canadian Politics and Government*, 1990. p. 175.

formalities, the important steps being second reading and committee stage.

The first stage consists of presentation of the bill by the Minister responsible. He or she describes briefly its objectives and content, and moves that the bill be read a first time, which makes it possible to print the bill, give it a number and distribute it to all MPs.

Debate on the principle of the bill begins when the responsible Minister moves that it be read a second time. Amendments may not be moved at this time; the opportunity for amendments comes at the third stage, consideration by committee. It is possible to refer the bill to the whole House of Commons, meeting as Committee of the Whole; this procedure, which was used in December, 1988 during the debate on the free trade legislation, speeds up the process leading to the final vote by the House of Commons. Usually, though, a bill is submitted to a legislative committee, where it is analyzed clause by clause. It is easier in committee for parliamentarians to express their approval or disapproval of the bill's contents. The committee may then propose technical amendments, or amendments to the details of the bill, but not to in principle, which was accepted by the House at second reading.⁶

The bill and any amendments proposed by the committee are then returned to the House, at what is known as report stage. This gives parliamentarians who are not members of that particular committee a chance to speak on the bill. There is a 48-hour period between its presentation of the committee's report and its consideration by the House, which allow parliamentarians the 24 hours they need to give notice of their intention to move an amendment. A MP is then given 10 minutes to argue on behalf of his or her proposed amendment. Once deliberations at report stage are concluded, a motion is made "that the bill (with an amendments) be concurred in."⁷

Once third reading has begun, "the insistence of the Opposition parties"⁸ can bring about prolonged debate before the final vote. After the bill is passed, it is sent to the Senate, where it goes through the same procedure, including three readings to committee. Senators participate in the process mainly during this

final segment of the legislative process.

In accordance with constitutional tradition, the Senate has the power to amend reject a bill sent to it by the Commons. Since the early years of this century, the Senate has used the latter option only rarely.⁹ A bill on penitentiaries tabled in 1938 and another on the Bank of Canada (1961) were rejected by the Senators. Most of the bills that suffered this far were not of overriding importance and their defeat did not directly affect the Government program.¹⁰ A decision by the majority in the Senate to vote against a bill passed by the Commons is exceptional; it also terminates all debate on the measure. In general, members of the Senate prefer to propose substantive amendments.

During the 33rd and 34th Parliament, the Senate's opposition to certain Government bills brought out very clearly the Senate's real power within the legislative structure. It can delay final passage of a bill that originated in the Commons by holding hearings in committee, thus making it easier to analyze the measure in depth. In 1987, profound disagreements between the two Houses were the causes of long delays in the consideration of Bill C-22, on pharmaceutical patents.

Persistent wrangling between the two Houses over a bill can be resolved by invoking a rare procedure called a "conference". Provided for under House of Commons Standing Order 77, it has been used several times since 1867. Holding a conference of representatives of the Senate and the House of Commons represents a last-ditch effort to resolve a persistent impasse between the two Houses. Eight such conferences have been held since 1925; five led to settlements, in two cases bills were abandoned when the Government of the day refused to abide by the conference's recommendations, and one bill was withdrawn following a statemate.

During the second session of the 33rd Parliament, there was some discussion of resorting to a conference to smooth the way to passage of the amended Patent Act (C-22) and Immigration Act (C-84). The many amendments moved by the Senate in both cases, and the considerable delays that followed, led to fears that the legislative process would grind to a halt; but the final decision by members of the Upper House to approve the two controversial

bills ended the impasse.

After the Senate has passed a bill, Royal Assent must be given. This stage proceeds as follows:

[Assent] is given by the Governor General in the Queen's name, in a special ceremony held in the Senate chamber in the presence of representatives of both Houses of Parliament. The Governor General does not usually attend this ceremony : instead he sends as his "Deputy" one of the judges of the Supreme Court of Canada, appointed by commission for this purpose.

In the course of this historic ceremony, the Clerk Assistant rises and reads, in English and French, the titles of the bills that are awaiting Royal Assent. The Clerk then holds up two bills in his hands and says, "In Her Majesty's name, the Honourable the Deputy of Her Excellency the Governor General doth assent to these bills." The Deputy of the Governor General then signifies his consent by a nod of the head. It is this gesture that constitutes Royal Assent, and it is at this time that the bills comes into force as law, unless there is a provision in the bill stating that it will come into force on a day to be fixed by proclamation.¹¹

Two fundamental principles shape the form of debates in the House of Commons. On the one hand, the Government must take the steps necessary to ensure sound management of public affairs and the passage of government legislation. On the other, parliament tradition holds that the minority, including the Opposition parties, has a right to express its point of view within the framework of the legislative process. The government, in consultation with the opposition parties, determines in advance the number of hours and days that must be allotted to deliberations at each stage in the process of having a bill approved. If the representatives of all parties agree, the Government can introduce a motion setting forth the proposed timetable.

The Government House Leader may also, under Standing Order 78(2), conclude an agreement with the Opposition parties regarding allotment of time at report stage and third reading. When a compromise cannot be reached, the Government may present its own timetable. In the event of a systematic Opposition blockade, the Government may invoke closure, which limits the time allotted to debate and facilitates the rapid passage of a disputed bill.

D. The Role of the Committees

Since the earliest years of Confederation, the House of Commons has enjoyed the benefits of a committee system. The Committees make an important contribution to Parliament: they facilitate the participation of MPs and Senators in the legislative process, allowing them to express their views on Government measures. The contribution that the committee system has made to the evolution of Parliament is obvious from a number of standpoints. The consideration of bills in Committee reduces the workload of the House of Commons and enables the Government to introduce several measures at a time. The members of Opposition parties can use this forum to question ministers and senior public servants about the management of departments and Crown corporations. Lobby groups use the Committees to argue in defence of their interests and to establish contact with the elected representatives who have influence over the decision-makers.

Following the recommendations of the McGrath Report,¹² certain changes have been made in the traditional role of the Committees. Four types of Committees assist the House of Commons in its operations: Standing Committees, Joint Committees, Special Committees and Legislative Committees. Most of the Standing Committees are matched with a Government department. They have between eight and fourteen members each and their membership reflects the proportion of parties in the House.¹³ Joint Committees of the Senate and the House of Commons look at questions of concern to both MPs and Senators, an example being the Joint Committee for the Scrutiny of Regulations. Special Committees are created in response to specific concerns of parliamentarians.

The structure of Commons Committees has recently been realigned into a system of five "broad" envelopes, four of which contain four or five Standing Committees and two Legislative Committees. For the Legislative Committees, the Speaker, at the commencement of each Session, will appoint for each envelope as many as six Members to act as Chairmen. Additional Members may be appointed, from time to time, if required. Members are to be drawn proportionately from the Government and Opposition sides. Each group of Members so appointed, together with the Deputy Speaker and Chairman of the Committees of the Whole, the Deputy Chairman of Committees of the Whole and the Assistant Deputy Chairman of Committees of the Whole, will constitute a Panel of Chairmen for the Legislative Committees belonging to each respective envelope. The Legislative Committees are to consist of not more than 14 Members.

The envelopes under which Committees are now structured include Management, Human Resources, Natural Resources, Economic and Departmental. The Management envelope does not contain any Legislative Committees, thereby limiting the number of Legislative Committees to eight.

Committees use the hearings and the questioning of witnesses as their basic information-gathering technique. When Government bills and estimates are under consideration, Ministers (normally accompanied by their chief departmental officials) are the usual witnesses. When broad policy issues are being examined, witnesses and experts from outside the Government often appear before the Committees.

Committee strategy is often mapped out by their Steering Committees, which decide who the witnesses will be and whether the Committee will have professional staff; they may then make the necessary arrangements. The atmosphere of the Committee may be highly partisan or very co-operative, depending on the matter at issue.

The various proposals for reforming the organizational structure of Committees stress the need to increase the effectiveness of parliamentary institutions and the participation of ordinary parliamentarians in the decision-making process. The recent changes in the composition of Committees, and the increased powers ex-

tended to Committee Chairmen and members in their examination of bills, of departmental management, and of Government initiatives, consolidate the position of parliamentarians within the legislative process.

E. Surveillance

Consideration of the legislative process also raises the question of surveillance, the means by which Parliament demands information and justification from the executive for the general direction of policy and for the detailed activities of Government. One such method is the consideration of department estimates. The estimates represent the Government's projected spending patterns for the year and are prepared by the Treasury Board Secretariat. Parliament must formally extend or without its approval of the estimates and is thus the final arbiter of Government appropriations, even though it is the executive that does the actual spending. Consideration of the estimates is today carried out in the relevant Standing Committees.

The most celebrated form of surveillance is the daily oral question period, which takes place for approximately 45 minutes. Questions are asked without notice and all Cabinet Ministers, including the Prime Minister, may be called upon to answer.

In recent years, Opposition parties have organized themselves to make a systematic choice of which Ministers, policies and problems to attack. They also decide who shall be questioners, and the Speaker, for most of question period, follows lists of questioners given him by the Opposition parties. Questions are in order as long as they are, in fact, questions, are asked about something for which the Minister is responsible and answerable, and are phrased in parliamentary language. Answers by the Minister are acceptable as long as they are relevant, in order, and delivered in parliamentary language. A Minister can choose not to reply and simply sit and ignore a question.¹⁴

Question period is "....a contest between cohesive and disciplined teams, the Government and the Opposition." It is a means of discrediting individual Ministers and Government alike, so that the public will be persuaded that the Opposition would be the better choice at the next election. Indeed, the bulk of television

and newspaper coverage of Parliament comes from question period.¹⁵

Members may also try to have an emergency debate on an issue of particular concern. There are also four days set aside for debate on the budget as well as six days to debate the "Address in Reply to the Speech from the Throne."

F. The Judiciary

The "rule of law" is one of the most basic constitutional principles of Canadian politics and Government. Indeed the principle of the independence of the judiciary is even older than that of responsible Government. The courts uphold a tradition of rights which goes back to the British *Magna Carta* of the thirteenth century. The federal Parliament passed a Bill in 1960 which offered further protection to citizens but was limited by being only an ordinary statute. With the addition of an entrenched Charter of Rights in the 1982 Constitution, the court system has become more prominent than ever before, expanding both quantitatively and qualitatively, and bringing appointed judges potentially into conflict with the policies of elected Governments and the laws passed by elected legislators. Canada is learning to live with the creative tensions associated with a shift in power to the judicial branch of Government from the parliamentary and executive branches. This has been very apparent recently in some sensitive areas such as abortion.

Canada's court system is a complex federalized hierarchy. There are two courts at the national level: the nine-member, Supreme Court created in 1875 but which did not become the final court of appeal until 1949; and the 25 member Federal Court which deals with suits against the Crown, appeals from federal boards and agencies, and other matters within federal jurisdiction. Quebec is guaranteed three judges on the Supreme Court and eight on the Federal Court to ensure that there are judges familiar with Quebec's civil law tradition to sit on relevant cases. Supreme Court justices are appointed by the Governor General on the federal Cabinet's recommendation and may hold office until the age of 75. They are the final arbiters of constitutional questions and of important cases of civil and criminal law. The Court may also agree to hear appeals from provincial courts of appeal.

Below this level are the majority of courts which are established under provincial jurisdiction. However, the determination of the criminal law is solely a federal power. Moreover, although the provinces determine the number and structure of the major courts within their boundaries, the federal Government has the power of appointment, tenure, and salary of these same courts. In all Ottawa appoints about 800 judges. The methods of appointment have come under closer scrutiny in recent years. There has been pressure to remove suspicions of political patronage, to follow independent advice from the Canadian legal profession, and to be more sensitive to regional and gender balance. The aim is for courts which are visibly above any partisan, political considerations and broadly representative of the Canadian population. Given the very extensive roles which the courts now perform, public confidence in their independence and impartiality is crucial to the legitimacy of Canada's system of government.

G. The Bureaucracy and Public Sector

It would be impossible to give a realistic overview of Canadian governmental structures without including some reference to the thousands of employees in hundreds of organizational units which actually carry out most of the work of Government and related state enterprises. The formal and political executives, the Legislatures and courts, are the tip of a very large iceberg. The federal Government alone directly employs over 200,000 "public servants," excluding the thousands who work for publicly owned "crown corporations" such as Canada Post. Provincial and local Governments and their agencies employ similarly large numbers of people. In addition, many more Canadians are public sectors employees in the sense that their salaries are provided out of public funds (e.g., teachers, health care workers, etc.).

The enormous growth of Government intervention and regulation means that the administrative machinery of state should be regarded as an important fourth branch of Government in its own right. Patronage and personal politics remain a controversial if necessary feature of the top levels of the decision-making pyramid. This is where the democratic element of the system is manifest, producing either change or continuity in policies and personnel. Minister can always be replaced and Governments changed

by the voters. But below this level there is vast weighty structure which operates according to a different set of rules and evolves much more slowly. Only a relatively small number of people in Government service are political appointments. Most are members of the permanent public service in which hiring and promotion policies follow the merit principle. Moreover, while Parliament passes all laws, many of these require complex regulations and "statutory instruments" for effective implementation. Sometimes laws authorize the delegation of regulatory and quasi-judicial powers to subordinate bodies.

Ultimately, responsible Government requires that Ministers of the Crown answer to Parliament for the activities of Government. But of course it is impossible for Ministers to keep abreast of everything which is under their purview or to oversee fully the actions of every official and the discretion exercised under delegated legislation. Ministers rely heavily on senior departmental bureaucrats and on their deputy heads for ongoing support and for confidential policy advice. In effect, these "super bureaucrats" are responsible for the smooth functioning of the administrative side of Government, which includes tasks of a routine and more or less permanent nature, and those specifically assigned to the bureaucracy by its political masters. (Occasionally, the Government may also go outside the regular channels of advice, for example by creating "royal commissions" to study particular subjects or by setting up special inquiries). Overall, despite the complexity of Government, the continuous, cyclical nature of its planning, programming, and expenditure management systems are such that only a manageable fraction of decisions need get taken finally to the Cabinet table, after first working their way through the bureaucracy and the myriad by ways of the public policy process.

Most of government takes place beyond the public eye. But there are tools to help ensure accountability that are an important part of modern democratic Government. Canada has an "auditor general" who scrutinizes the Government's books on behalf of Parliament. There are also federal commissioners for human rights, privacy, access to information and official languages. Some provinces have established "ombudsmen" to investigate citizens' grievances alleging bureaucratic errors of commission or omis-

sion. While democratic change can only come through Parliament and decisions of the political executive, there are many large issues of accountability and redress in relation to the state which are independent of which political party forms the Government.

The size and financing of the state sector have become major issues in the present climate of budgetary restraint. Over the years, Governments have become involved in many areas of social and economic life. Beyond the bureaucracy itself, the public sector has expanded to include large numbers of Government corporations and many subsidy programs. Those that no longer serve clear and compelling policy purposes may be likely candidates for privatization or elimination. While such issues remain controversial, it can be expected that all levels of Government will look favourably on ways to improve their fiscal position, to avoid duplication of services, and to increase the efficiency of their operations.

The Policy Process in Ottawa

Understanding how the structure of Canadian Government function in everyday reality entails more than a knowledge of the formal institutions of the state—the monarchy, the Cabinet, Parliament, the courts, the bureaucracy, and the entire network of governmental and quasi-governmental agencies, corporations, boards, commissions, etc. Government in practice is a continuous decision-making process, an often untidy flow of countless interactions and transactions. In a democracy, especially important is attention to process, including mechanisms for representation, interest articulation, consultation, consensus-building, and accountability. In the Canadian system, electoral politics, participation through political parties, interest and advocacy groups, non-governmental organizations, and other forms of civic action, are all part of the diffuse democratic environment within which Government operates.

This environment has been described by Process as the “policy community”. The diagram in Figure 5 illustrates the complex processes within it as a series of concentric circles of interaction and influence radiating out from the central executive structures. There have been many modifications to these structures in recent years, with consequent effects on management approaches,

decision-making patterns, and channels for "lobbying" Government. Analyzing this "kaleidoscope in grey," as Van Loon and Whittington aptly call it, is beyond the limited scope of this paper. But as a broadbrush comment, the current trend appears to be towards clear, centralized political control of the policy agenda, both within Cabinet, and through Cabinet to the policy-making structures of Government as a whole. This contrasts with earlier bureaucratic exercises which attempted to organize the flow of information and governmental decision making within a "rationalistic" planning superstructure.

Van Loon and Whittington caution, however, that the only certain prediction for Canadian governance in the 1990s is that "no system is forever; as actors come and go, new positions of power and new systems evolve."¹⁶

Conclusion

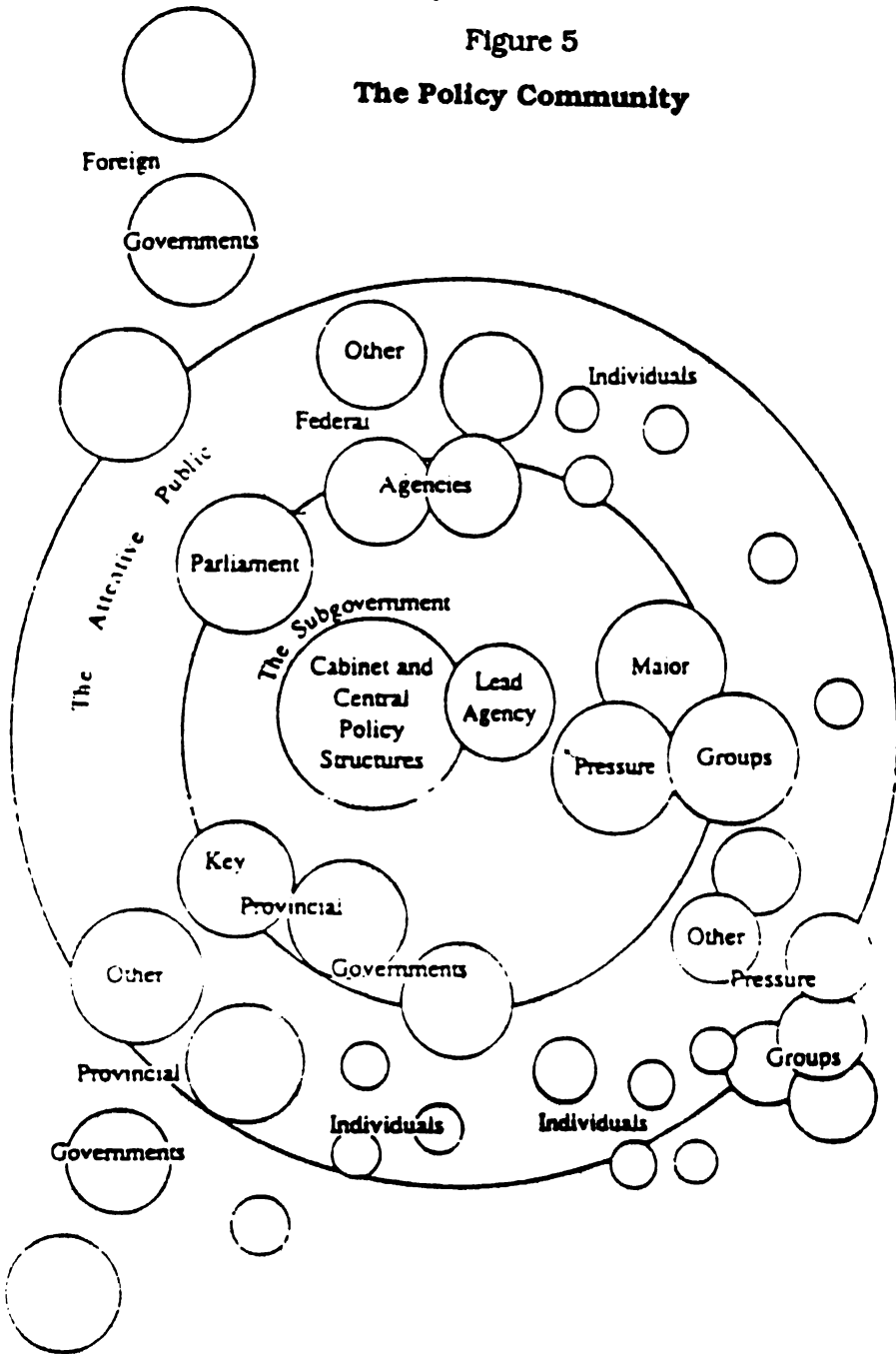
As indicated in the introduction to this paper, Canada's parliamentary system is the inheritor of several rich democratic traditions, traditions which have provided Canadians with a solid foundation upon which to build instruments of governance which are uniquely their own. Nowhere is this characteristic more visible than in the operation of Canada's Parliament and its role in the Canadian system of Government. As this paper has sought to demonstrate, Canadians have used this institution to further and deepen the democratic principals upon which the country was founded. Parliament has been, and continues to be, the institution which is at the forefront of efforts to confront important which challenges facing the nation. As such, Parliament itself is subject to change as it seeks to address the evolving needs of Canada and its people; but any institutional change occurs within a framework whose worth has been demonstrated, not only during Canada's history but by the experience of those countries whose traditions of governance Canada has inherited.

The nature of Canada's parliamentary system with its ability to combine tradition with innovation, is best summed up by one of the country's wisest and most dedicated scholar-politicians, the late Eugene Forsey. Addressing the larger issue of nation-building and the historical relationship between English and French-speaking Canadians, Forsey's words apply equally to Can-

ada's parliamentary democracy :

Figure 5

The Policy Community



Source : A. Paul Pross. "Pressure Groups: Talking Chameleons," in Michael Whittington and Glen Williams, eds., *Canadian Politics in the 1990s*, third edition, Nelson Canada, p. 301.

The Fathers wrought well, and laid our foundations deep and strong. But the building is still unfinished, and parts of it have suffered some damage through the years. It does not need a bombing squad or a wrecking crew. But it does need alterations, repairs, additions, the expansion of certain rooms; and all of us must be made to feel at home in it.¹⁷

In the years to come, Canada's parliamentary institutions will continue to address the needs of all Canadians thanks to the "deep and strong" foundations provided by this country's democratic inheritance.

REFERENCES

1. Canada's first Prime Minister, Sir John A. Macdonald, wanted to call the new nation the "Kingdom of Canada", but a more neutral term was chosen out of deference to American sensitivities. A primary motive for confederation was the vulnerability of the far-flung, sparsely-populated colonies to American expansionary and economic pressures.
2. Previously, cases could be taken to the Judicial Committee of the Privy Council at Westminster. Some of its decisions had important consequences for the balance of federal-provincial relations.
3. Ironically, however, this process was only accomplished with a last act of the British Parliament and the *Constitution Act, 1982* was signed into law by the British monarch, Queen Elizabeth II, in her capacity as Queen of Canada.
4. The Senate currently has 109 members because of the use in September, 1990 of a little-known constitutional provision that, to break a parliamentary deadlock, allowed up to eight extraordinary appointments to be made (one or two from each of four regions) by the Queen on the recommendation of the Prime Minister. The Government appointed eight new senators giving it a majority in order to pass a controversial tax bill. No further appointments can be made until after the Senate returns to its usual 104-member limit as a result of resignations, retirements or deaths.

5. The following section is taken from Luc Fortin, *The Legislative Process*, Background Paper 151-E, Library of Parliament, 1989, pp. 5-10.
6. Under new rule changes adopted on 11 April, 1991,
 - * Legislative Committees will no longer be struck for each bill adopted at Second Reading. The Government can send bills to Standing Committees at its discretion.
 - * Legislative Committees will be restricted to hearing testimony from witnesses on "technical" matter only.
7. House of Commons, Table Research Branch, *Precis of Procedure*, 1987, p. 128.
8. Robert J. Jackson, Doreen Jackson and Nicolas Baxter-Moore, *Politics in Canada: Culture Institutions, Behaviour and Public Policy*, Prentice Hall, Scarborough, 1986 p. 306.
9. F.A. Kunz, *The Modern Senate of Canada, 1925-1963*, University of Toronto Press, Toronto, 1965 p. 349.
10. *Ibid.*, p. 351.
11. Raymond L. du Plessis, Q.C., *The Law-Making Process, The Senate of Canada*, revised note, February, 1988, pp. 10-11.
12. Canada House of Commons, Special Committee on the Reform of the House of Commons, Report, Ottawa, June 1985.
13. The recently adopted rule changes states that Standing Committees will have no less than 7 and no more than 14 members. Also Parliamentary Secretaries will now be able to be members of Standing Committees.
14. C. E. S. Franks, *The Parliament of Canada*, University of Toronto Press, Toronto, 1987, pp. 145-146.
15. *Ibid.*
16. Richard J. Van Loon and Michael S. Whittington, "Kaleidoscope in Grey: The Policy process in Ottawa", in Whittington and Glen Williams, eds., *Canadian Politics in the 1990s*, third edition, Nelson Canada, Scarborough, 1990, p. 467.

17. Eugene Forsey, "Canada: Two Nations or One", *Canadian Journal of Economics and Political Science*, Vol. XXVIII, November, 1962, p. 501. Forsey's reference to "Fathers" concerns the men responsible for shaping Canada's Confederation in the late 19th century.

THE DANISH DEMOCRACY ON TRIAL

Kristian Hvidt

Denmark, with her five million inhabitants, belongs to the small democracies of the Western World. Seen as a geographical unit, the nation has a character of its own because the population is scattered over many islands. Denmark proper is divided between the Peninsula of Jutland and numerous islands, big and small, surrounded by water, and except for the short terrestrial German border, all borders are delimited by water.

The country has one advantage, which is rare among nations, namely that of being an ethnical and a linguistic unity. People speak the same language and therefore also feel politically and nationally that they are part of an old and well established community. This also applies to the two remoter parts of Denmark *i.e.* Greenland and the Faroe Islands. It is true that usually other languages are spoken in both the latter places, but the populations also speak Danish and feel at ease with being an

integral part of the Kingdom of Denmark.

Denmark is a Kingdom and has been so for about one thousand years. When the Danish Kings were strong and powerful princes in the 18th century, also ruling Norway and two rich duchies of Northern Germany, the Kings built a big and splendid Royal Palace in Copenhagen, bearing the name of Christiansborg, thus evoking the name of the Monarch, and from this Palace, the princes ruled their Kingdoms as absolute rulers. The many rooms of the Palace also housed the servants and footmen of the Kings.

But in the years following 1948, absolute monarchy was abolished. The King had to diminish his Royal Household and new institutions moved into the Palace. The Kings had to restrict themselves concurrently with their power being limited and a popular, democratic rule gradually 'conquering' almost all the rooms in the Palace. But the Palace is so spacious and the Kingdom of Denmark so small that within the same walls it could accommodate the Royal State Apartments, the many committee rooms and offices of Parliament, the Prime Minister's Department, the Supreme Court and until 1980 also the Ministry of Foreign Affairs.

The position of the Folketing

The fact that the country and its administration are of comparatively small size does not mean, however, that the political system is without problems. The Danish democracy has in recent decades seen some changes which have made the political system less than stable than before. Frequent elections and changing constellations of Government have not shaken the confidence in democracy as a form of Government but raised the question whether the formal rules of this form of Government are in need of reform.

The Danish Constitutional Act dates from 1849. It is built entirely on the first Danish Constitution of 1849 which was again founded on the liberal ideas of French and English philosophers of the 18th century who have left their imprint on almost all European democracies. In Denmark, the transition from absolute monarchy to real democracy has been rather protracted and full of conflicts. It was difficult to get rid of what remained of the privileges of the Royal power and the upper classes. With the

adoption of the Constitutional Act of 1953, however, the Upper House—the Landsting,—which had for long prevented universal suffrage from gaining the real control over the Government of the State, was abolished.

The political centre of the country now is the Folketing elected by universal suffrage. The Folketing reflects the voters' political points of view and their preferred candidates and political parties. The number of mandates which the political parties obtain in the Folketing is decisive for the election of Prime Minister and Government. In practice, the Folketing exerts full control over the legislation. Her Majesty Queen Margrethe II plays an important role as the very distinguished and cultured head of the nation but has little real, political influence. However, the Queen still has a symbolic voice as her signature is a prerequisite for making a Bill which has been passed to come into force and also for making the appointments of a Minister valid.

The Folketing has 179 Members elected according to proportional representation among candidates standing for election in the 17 countries and large constituencies of the country. Approximately 20,000 voters correspond to each elected mandate. 135 members are elected directly in the constituencies while 40 mandates are subsequently distributed among the areas in which big numbers of votes have not been sufficient to ensure the election of an ordinary mandate.

Originally, the electoral system was like the British system, majority elections in single-Member constituencies, which meant that there were only two or three political parties in the Folketing. The use of the more complex system of proportional representation meant that a greater number of important minorities in the population would be represented in Parliament. But this has also led to an increase in the number of parties and thus a more instable political climate.

In order to limit the number of parties, two barriers have been introduced. New parties must present about 18,000 signatures from voters in order to be recognized and also there is a threshold rule for the small parties implying that they must have obtained at least two per cent of the votes in order to be represented in the Folketing. Nevertheless, the number of parties in the

Folketing has increased steadily. After the general election which was held in 1973, the number of parties doubled from five to ten. At present, there are eight parties in the Folketing.

The increase in the number of parties starting in 1973 was not only an expression of the voters' fatigue with the old, centre-seeking parties, but also a reaction to the many, significant events outside Denmark at the time leaving their marks all over the world; the youth revolts, the oil crisis and the Vietnam War. Domestic affairs such as the increasing pressure of taxation in Denmark as a result of the big demands made on social welfare also found its expression in the forming of a new party. Corresponding tax refuser parties have later been formed in Norway and Sweden. Obviously, this splitting up into many parties is a phenomenon in Danish politics which is there for good.

The many parties of the Folketing renders the decision-making process slower as well as more difficult. All Bills and resolutions must be heard and debated by all eight parties.

Party associations and nomination of candidates

The dwindling interest in taking active part in the political life is one of the changes in the structure of the Danish, democracy which has caused some anxiety. As from the 1960s, rather big grassroot movements arose spontaneously owing to topical issues such as the peace movement, the anti-nuclear question, protests concerning the environment, etc. In a short span of time, these movements, were able to organize themselves in associations and to form political pressure groups. But on the other hand, the interest in the organizations of the political parties are very much on the wane. The big parties like, the Liberal Party and the Social Democratic Party were formerly backed by strong national organizations ensuring their numerous adherents a solid, political education with a great number of their representatives to choose from to sit on local councils and in the Folketing.

Better education has made the voters more independent and critical. The number of members in the party associations is very much decreasing. This causes anxiety among politicians because to them these organizations are the basis of democracy. This is because the entering the candidates for election is undertaken by local party organizations which have perhaps only 20-30

active members, who will take part in the nomination meeting. One might ask how the right candidates are to be found and nominated in say twenty years when the number of members of the various parties has been even further reduced.

However, this does not mean that the interest in democracy is decreasing. When polling day comes, about 90 per cent of the voters show up to cast their vote. In between elections, it may perhaps be a bit more difficult to detect an interest in politics. But still there are no indications of a falling interest in offering oneself as a candidate for one of the parties.

Generally speaking, it can be said that those elected are better educated than the population seen as a whole. Many of the members are officials but on the other hand certain occupational groups like, retailing and agriculture are clearly very scarcely represented in the Folketing. This is due to the fact that being a member is now so time-consuming that it is not possible to have a private job as a tradesman or a farmer concurrently with having a seat in the Folketing. In recent years, much has been done to improve the working conditions of members. The members now have their own offices and the assistance of clerical staff corresponding to a part-time secretary.

The members of the Folketing are remunerated more or less on a level with a Head of Division in the Central Administration. This means that their salaries are lower than those of the parliamentarians in countries like Germany and France but almost the same as those of members of Parliament in Sweden and Norway.

Problems of forming a Government

The phenomenon leading to the big increase in the parties represented in the Folketing has not only made the procedure of legislation more difficult in the last twenty years. What is worse, it has also rendered the forming of a stable Government supported by a majority in the Folketing more difficult. After severe fights during the nineteenth century, Cabinet responsibility was approved in Denmark in 1901 along the lines of the English system, and it was entered in the Constitutional Act of 1953. Thus the Government shall be elected among the majority of the Folketing. But

this is easier to say than to do.

Since 1906, no individual parties have had the majority and been able to form a Government on their own. The Sovereigns, who head negotiations on forming a Government, thus have to find constellations of parties, the members of which would agree on a common policy, which would represent a majority in the Folketing. To the present Queen, Her Majesty Queen Margrethe II, this became a serious difficulty especially from the 1970s, because neither of the two political blocs—the non-Socialist and the Socialist ones—were able to get a stable majority. The non-socialist wing has met with difficulties also because some small centre parties vote now with one group and later with the other, depending on the matter in question. Members of one of the parties, the Progress Party, which is a tax refuser party, cannot or will not be counted among the supporters of a non-Socialist Government.

Dating right back to the 1960s, the two blocs, the Socialist and the non-Socialist, have had almost the same size or number of mandates in the Folketing or one of them has been able to hold the power only due to the majority of a single mandate—in a period due only to one of the Greenlandic member's allegiance to one or the blocs. Though writs for an election have been issued almost every second year, and one has appealed to the voters to make them obtain a majority in the Folketing, this strange balance between the blocs has not changed notably. Analysis do show that many voters change from one party to another at elections, but still they tend to remain within the same individual blocs changing, for instance from the Social Democrats to the Socialist People's Party or from the Liberals to the Conservatives. But very few votes cross the centre barrier in politics so as to really tip the balance.

Since the First World War, the Social Democrats have been the biggest party in the country but have never obtained an absolute majority. Up to 1982, it was the Social Democrats who were the party in power; for some years they were on their own as a minority Government, at other times they sided with the Social Liberal party. In Denmark, the small Social Liberal Party has, as in so many other Western democracies, exerted a great influence

for a number of years. This is due to the fact that being a Social-Liberal group it was placed in an advantageous position between the big political groups. In recent years, its influence has diminished because two other small parties, the Christian People's Party and the Centre Democrats, are also placed round the centre of the political spectrum.

In September, 1982, a major reshuffling was made in Danish politics when a Social Democratic Government, without issuing writs for an election, ceded power to a non-Socialist coalition consisting of four parties, the two large non-Socialist groups, the Conservatives and the Liberals, as well as two of the smaller non-Socialist parties. Applying tactical skill, Mr. Paul Schlüter, Conservative Prime Minister, has held his post for more than ten years, however, allowing for changing constellations of parties in the Government. At present, Mr. Schlüter's Cabinet is in power with a Liberal-Conservative minority Government representing only 60 out of the 179 members of the Folketing.

However, the fact that the same Prime Minister has been able to remain in power for more than a decade cannot be interpreted as an expression of stability in the Danish democracy. It has been ten troubled years politically speaking. And that raises the question as to how Cabinet responsibility should be defined, in principle, and as to who is entitled to interpret the very few provisions on forming a Government in the Danish Constitutional Act.

The Constitutional Act of 1953 says, "A Minister shall not remain in office after the Folketing has approved a vote of no confidence in him". This is an expression of so-called negative Cabinet responsibility. Her Majesty the Queen can appoint Cabinets on the advice of the Party Chairmen and Ministers can remain in office until the Folketing decides otherwise. Formerly, this was intended to mean that a Cabinet had to resign if it was outvoted on an important issue.

This happens more often nowadays and especially in the years preceding 1988. The Government was outvoted many times because one of the small parties felt obliged to vote with the Opposition on an important issue concerning security policy. But the Government choose not to regard these votings as an expres-

sion of no confidence and thus remained in power for a long time. The Opposition claimed that the Government ought to have resigned on the first order-paper, which outvoted it, and it can, to some extent, be said to be entitled to question this interpretation of the principle of Cabinet responsibility.

A difficult time for minority Governments

Minority Governments live dangerously also where the daily work of dealing with the approximately 200 Bills, which are read during each sessional year, is concerned. Ministers have to negotiate with Party Chairmen in an attempt to have a majority for the Bills. It happens quite a number of times every year that a majority is obtained outside the Government. This majority will then enact legislation which the Minister must loyally accept and implement.

Ministers are frequent guests of the Committees of the Folketing where they try to obtain a majority for their Bills going over one Section after another. Where major laws are concerned the Finance Bill or economic reforms to combat unemployment negotiations will often be moved from the Committee rooms to the offices of the Ministers outside the Folketing, and they will often be headed by the Prime Minister assisted by the experts of the administration.

These closed, often nocturnal, negotiations provide practically the sole possibility for minority Governments to have their reforms carried through. But the method of negotiations leaves its mark on the political life and the voters note this and react against it. On one hand, it gives democracy a tinge of secretiveness. And on the other hand, some people might claim that the quality of the legislation suffers from it, as many parties taking part in such negotiations end up adopting compromises which are not thoroughly prepared and on which too many cooks have spoilt the broth by leaving fingerprints on the Sections.

The Danish democracy has had to put up with minority Governments for many years and they have proved that they can, after all, tow through increasingly more troubled waters, politically speaking, and still obtain results in the form of a reasonable legislation. However, points of view of fundamental economic and

social issues differ so much among parties that it is difficult to arrive at the same picture of carrying through the major reforms which do, seriously, adopt the legislation to the changes of society.

The unimpeded outlook on the state and needs of society which the members have is also hindered by the fact that the Folketing's obligation to act as an authority of control *vis-à-vis* the Ministers and the administration has been very much extended in recent years. This function—the control with the State accounting—has always been as important as the legislative one but in the last twenty years it has come to take up still more of the time and thoughts of the Folketing.

Ministers and committees of the Folketing

What has been said above is partly due to the country being governed by minority Governments which a zealous Opposition works hard to overthrow. But it is also linked to an apparently small amendment to the Standing Orders of the Folketing of 1973-74, which was to have a great effect. The amendment concerns the transition from ad-hoc Committees, set up for each Bill, to a number of Standing Committees which deal with the legislation between the first and second readings of Bills. The reform, which was inspired by the Swedish model, led to 24 Standing Committees being set-up, each of them consisting of 17 members, and each of them covering the sphere of competence of the individual Minister.

The Standing Committees shall not only read the individual Bills but can also take their own initiatives, call Ministers for so-called consultations and make the Minister concerned render on account on each question within the sphere of competence of his/her Ministry. The members of the Committee require a far greater insight into the administration of the enacted legislation than was formerly the case. And this has given rise to a number of questions on the dividing lines between the legislative and the executive powers and also about the division of responsibility between the Minister and the civil servants in his/her own administration. The existing legislation provides no answer to these questions.

The question about the scope of the Minister's responsibility and as to whether the Standing Committees have their share of responsibility when the Minister has informed the Ministers of the Committee in question about his/her actions has become one of the most topical problems of current politics. In recent years, this has led to a number of embarrassing situations in which the Folketing or the Prime Minister's has made legal inquiries into the actions of various Ministers in concrete matters.

This crisis in the relationship of trust could also, to some extent, be felt when Danish voters on the second of June, 1992 voted 'no' to the Maastricht Treaty concerning the European Community. And this, in spite of more than four-fifth of the members of the Folketing having advocated 'yes'.

The difficulties for the Danish democracy referred to above are presumably the kind of weaknesses or illnesses which in medical language are referred to as syndromes, a coincidence of various circumstances which put together make out a picture resembling a crisis. The origin of it all can, however, be said to be a kind of 'calcification' of the ideological system. To political ideas of the 19th century—liberalism and socialism—have dominated the policies of this century. But they have not, as prophesied by the philosophy of Hegel, formed a synthesis in the form of a renewing and inspiring ideology which might affect and carry away the voters and give the political system a well needed feeling of incentive and unity. The want of this has the effect that the voters do seriously consider their position but on the other hand they do not move too far from the social class to which they belong and therefore do not cross the political centre barrier.

This has also led to a constellation which tends to engender minority Governments and thereby confrontations in matters, big and small. In many ways, this diagnosis of the Danish system reminds one of similar problems in other European democracies. In the long run, politicians have to find some formal, legal solutions to some of them. These parts of the syndrome might be termed difficulties, but hardly a danger to the roots of democracy — the roots are sound enough and they make new 'buds' unfold on their many branches.

POLITICAL SYSTEM OF PAKISTAN

The Constitution defines Pakistan as a federal republic comprising four provinces of Balochistan, the North West Frontier Province, the Punjab and Sind; the Islamabad capital territory; and the Federally administered tribal areas (FATA). These federating units offer a host of diversity and variety in terms of languages, levels of social and economic development, population density, climatic conditions, terrain, etc. Sharply contrasting social conditions are encountered in places as diverse as the cosmopolitan city of Karachi, the meticulously planned capital city Islamabad or the tribal belt in the North West. Balochistan, which has the largest area, has the lowest population.

The brief history of political development of the country reflects in a highly illustrative form the travails of coming to grips with this multi-faceted diversity squeezed into an area of 796,095 Sq. km but having a population of 110.37 million spread unevenly in the federating units. The continuous efforts to find an equitable participative system which strikes a practical balance between various interests and is equally acceptable to everyone constitutes an absorbing field of study. The adaptive processes whereby political systems fine-tune to on-ground realities continue with a

Contributed by the National Assembly Secretariat

high level of intensity.

Historical factors rooted in the emergence of the country from colonial rule and geo-political Compulsions gave the federation a strong orientation towards an effective centre. This orientation has over years of adjustment lost of ground. The Constitution now seeks to define the powers of the centre through clearly out legislative lists with the provinces retaining the residuary powers. The effective say of the federating units has been further reinforced by constitutionally appointed entities of Council of Common Interests: which monitors the operational legislation list; National Economic Council: which oversees the economic and financial policy formulation; and the National Finance Commission which controls the distribution of revenues. In all the three bodies the provinces deal with the centre on a basis of equality on matters which are crucial to the distribution of powers. The fact remains that provinces have moved from a state of total dependence on federal grants to a position whereby in certain provinces spending potential of provincial machinery is lagging behind available resources.

At the federal level the focal point of the political arrangements is the Parliament which comprises the President, the National Assembly and the Senate. The President is elected by an electoral college consisting of members of both Houses and members of the provincial assemblies for a term of five years. The executive authority of the Federation vests in the President. In exercise of this function the President acts in accordance with the advice of the Cabinet or the Prime Minister. Notwithstanding this general provision, the President has also been given the power to act in his own discretion in certain cases specifically defined by the Constitution. These discretionary powers enjoyed by the President within the context of a parliamentary system, have generated considerable debate.

The National Assembly is elected for a 5-year term on the basis of adult franchise and one man one vote. In a country with 97% Muslim population and minimum chance of a non-Muslim securing a general seat, 10 seats have been reserved for non-Muslims in a House of 217 seats.

The National Assembly is required by the Constitution to meet for a minimum of 130 days in a year. Its working is normally divided into various sessions. The most hectic session coincides with the passage of the federal budget in May/June every year. The National Assembly enjoys exclusive powers to consider financial bills including the annual budget. The Assembly also provides a minimum of three-fourth of the Cabinet strength and the member who enjoys the supports of the majority in this Chamber is invited by the President to form the Government. The Prime Minister is as such a member of the National Assembly. Cabinet in turn is collectively responsible to the Assembly.

The House is presided over by a Speaker who is given wide powers to regulate the working of the legislature. In addition to his formal duties, the Speaker is frequently called upon to play the role of a mediator between the treasury and Opposition benches and take steps to reinforce democratic tradition.

While the open debates in the House attract a lot of press coverage and interest, considerable practical work is done by the Committees. The new rules of procedure, recently adopted, have given a new meaning to the role of the Committees and have given them much wider powers. Redefinition of the functioning of the Committees is directly related to an awareness that Committees should act as an effective instrument of accountability of the Executive before the Parliament.

Representation of the provinces in the National Assembly being determined by their population, disparities in the population get reflected in the popularly elected forum. For instance, against a total membership of 115 members from the Punjab, the province of Balochistan is represented by only 11 members. The Senate has gradually come up as a practical response to problems arising out of such a situation. Out of the total membership of 87, each provincial assembly elects 19 members, five of them being technocrats. Eight members are elected by members of the National Assembly from FATA. The federal capital contributes the remaining three Senators. The election itself is on the basis of a system of proportional representation by means of a single transferable vote. The Senate presided over by a Chairman is not subject to dissolution, the maximum term of a Senator being six

years.

Except for a finance Bill, any Bill on which the federal legislature is competent to legislate, can originate in either House and on its passage transmitted to the other House which either passes the bill or it has to be taken up in a joint sitting of the two Houses, presided over by Speaker of the National Assembly. The Constitution also lays out the financial procedure under which a detailed estimation of expenditure for operation of the government is approved as grants by the National Assembly.

The provincial arrangements generally parallel the central set up. The Governor of a province is appointed by the President in consultation with the Prime Minister while the Chief Minister is the member of the Provincial Assembly, enjoying the confidence of the majority. In additions to distribution of powers, specific provisions of the Constitution deal with administrative relations between federation and provinces.

The Judiciary whose independence and jurisdiction is determined by the Constitution, comprises a Supreme Court and a High Court for each province. The manner in which Judges are to be appointed is also specified.

Other institutions specifically provided for by the constitution are an Auditor-General, a Federal Shariat Court and a Federal Ombudsman. The expenditure of these agencies is viewed as a direct charge on the exchequer and they have been given institutional independence to perform their assigned functions.

The Constitution also caters for an independent Chief Election Commissioner and provides a detailed basis for electoral laws. All elections under the Constitution are by secret ballot and political parties can freely participate in them. After experimenting very briefly with non-party politics, the country reverted to fully functional political parties.

It does credit to the political awareness of a country with a low per capita income of \$ 370 and a literacy rate of 29%, in which sizeable areas are still under the sway of medieval tribal cultures, that the democratic system has always resurfaced even

from organised attempts to discredit it during totalitarian forays. Over the last few years there has been an appreciable intensification of the democratic culture which augures well for the future of elected institutions.

SEJM OF THE REPUBLIC OF POLAND

"All power in the community of men derives from the will of the nation"

(Constitution of Poland, 3 May, 1791)

Poland's parliamentary tradition goes back to the European Middle Ages. In the 12th century, Royal Councils composed of Church and lay dignitaries served the sovereign with their advice on matters of state importance. Chronicles have noted that 14th century Polish kings Wladyslaw the Short and Casimirus the Great, sought local and national assemblies' support when faced with major decisions. Jan Dlugosz, Poland's 15th century chronicler, referred to an assembly held in 1382 at Wislica as *Dieta* (i.e., iŕ medieval Latin, Dict) which led some historians to regard the event as the beginning of the history of Polish parliamentarian.

In the 15th century, in the Kingdom of Poland there were three types of assemblies operating simultaneously; regional ones, attended by all the local noblemen; provincial (Tor Malopolska and Wielkopolska provinces respectively), and the national gathering called the *General Sejm* (i.e. Convention), composed of the Royal Council, and the nobles resident locally or in the vicinity of its venue, as well as representatives of major towns and of the Church.

Information Bureau of Sejm

Occasionally at first and, after 1493 regularly, the regional assemblies sent their representatives to the *General Sejm*. The date marks the birth of a bi-cameral *Sejm* made up of the Senate (i.e. the earlier Royal Council) and the House of Deputies. The Senators were the King's lifetime appointees from among Roman Catholic bishops, voivodes and castellans as well as senior lay dignitaries. The deputies were elected by local assemblies, usually two of them from one region (or voivodship); subsequently, largest voivodships could elect up to six deputies. Gradually, the third estate—the towns—was deprived of the right to send its representative with the exception of Cracow and Vilnius, the towns of royal residence.

The *Sejm's* importance was enhanced by the 1505 *Sejm Nihil Novi Act*, providing that "hereafter nothing new designed to alter the law on curtail public freedom shall be enacted without the common consent in the Senators, and regional Deputies, and the King".

The *Sejm* enacted laws, levied taxes, conferred titles, received foreign envoys, laid down foreign policy guidelines, controlled the treasury, approved levy in mass (of the nobility as the State had no permanent army) and had the power of reprieve or amnesty.

Until the "seventies of the 16th century, the Kings convened *Sejms* frequently, if irregularly, their venue varying between different cities and towns, principally Piotrkow Trybunalski, but also Cracow, Lublin, Radom, Sandomierz and Warsaw. Following the Union of Poland and Lithuania to form the Commonwealth (Lublin Union Act, 1569), the *General Sejm* was extended to include Senators and Deputies from the Grand Duchy of Lithuania. Upon the transfer of the capital city from Cracow to Warsaw, in the beginning of the 17th century, the *Sejm's* venue became the Warsaw Royal Castle.

The 1573 Articles, signed upon election by the first elected King of Poland, laid down for the *Sejm* to meet for 6-weeks' sessions every second year; the Articles also provided that an *Extraordinary Sejm* could be convened as well. Late in the 17th century, to accommodate the Lithuanians it was decided that

every third *General Sejm* would meet at Grodno in the Grand Duchy of Lithuania.

Religious peace between various Christian and non-Christian denominations was guaranteed by the 1573 *Sejm* act and the dissidents were given state protection: religious tolerance was an important feature of the Commonwealth of the Two Nations, if one bears in mind the situation in this regard elsewhere in Europe. Another characteristic was the high proportion of nobility accounting for 8-10 per cent of the population, that is to say that the group of people enjoying the political rights was several times stronger in Poland and Lithuania than in other countries at the time. The nobility had the right to participate directly in elections of new kings; this manner of voting was termed in Latin *viriliter*, i.e. "every male one vote". At the coronation *Sejms*, usually in Cracow, the elected Kings pledged to maintain all the privileges granted by their royal predecessors to the nobility termed as the *szluchta*.

The *szluchta* members were absolutely equal among themselves—hence the principle of unanimity that culminated—and degenerated in the institution of *liberum veto*: from 1652 onwards any single Deputy by declaring "*Liberum veto!*" (I am free to object) could break up the debates invalidating all decisions taken by the *Sejm* session and dissolve the body. Several decades on, the *liberum veto* practically paralysed the central authority (In 1688 the *Sejm* session was disbanded even before its Marshal—or Speaker was elected). With weakened central power, local assemblies, *sejmiki* the dietines—rose in importance; but these were totally manipulated by the local aristocrats who took care to nip in the bud any attempts to amend the sad state of affairs.

Partial reforms were introduced under the last King of Poland in the "sixties and seventies" of the 18th century and then the *Grand Sejm* (1788-1792) addressed the formidable task of transforming the declining state. The Constitution of 3 May was adopted in 1791—second such organic law worldwide, preceded only by the American Constitution. The May Constitution stipulated that "all power in the community of men derives from the will of the nation". The "nation", however, in 18th century terms was limited only to the nobility. The principle of the nation's

sovereignty was accompanied by the adoption of the division between the legislative, the executive and the judiciary. The Constitution vested in the *Sejm*—composed of the Senate and the House of Deputies—the supreme state power. For the first time worldwide it included the statutory provision of Cabinet Ministers' accountability to the Parliament. The *Grand Sejm* also voted to reform the army, the treasury and public administration.

Unfortunately, the reforms were not destined to be implemented: in 1795 the territory of Poland was finally partitioned by Russia, Russia and Austria; the Polish-Lithuanian state was wiped out from the political map of Europe. Thus, between 1795 and 1918 public life in Poland largely could not develop normally. The Duchy of Warsaw (1807-1815), formally an independent state covering but a fraction of the territory of the former Commonwealth, had a liberal constitution. The *Sejm*, elected according to a liberal electoral law, adopted *inter alia*, the law enfranchising the former serfs, enacted a number of modern codes, including civil and commercial ones. The Kingdom of Poland, created at the Congress of Vienna (1815) in personal union with the Russian Empire, continued some parliamentary practices. Tragically, the November Insurrection (1830-1831) brought in its wake the wiping out of all Polish institutions—the *Sejm* and the Senate, the Government and the Polish army. Under the Russian rule and Polish people had no opportunity to participate in political life of their own. Interestingly, the interrupted parliamentary tradition flourished in the Polish circle's activity in the Russian Duma (1906 onwards).

In the parts of Poland incorporated into the Kingdom of Russia and the Austrian Empire the provincial *sejms* in the Duchy of Poznan and in Galicia continued to function in their consultative capacity only. Nevertheless, to a certain extent the opportunity was there for maintaining a form of a parliamentary life.

After 1870, when in the German Empire and that of Austro-Hungary liberal constitutions and the resulting parliamentary systems were introduced, Polish parliamentarians actively joined the political life of Berlin and Vienna.

The 123 year-long period, when Poland was deprived of independent statehood, was over in November, 1918. The nation regained its independence and statehood, as a democratic repub-

lic. The *Constituent Sejm*, the first democratically elected uni-cameral assembly of the re-born Poland, was convened on 10 February, 1919. The election of January, 1919 for the first time in the history of Poland saw women voting on an equal footing with men. The Constitution of 17 March, 1921, provided for a bi-cameral representative body; *Sejm*, the chamber of 441 deputies, was placed above the 111-seat Senate and was, of course, superior to the executive—the President and the Government.

After May, 1926, when Marshall Jozef Pilsudski and his followers regained power, a trend began to restrict the dominant role of the legislative in favour of the executive. Thus, the President of the Republic and the Government had their powers strengthened by the August, 1926 amendments whereby the *Sejm's* former position was weakened. The new, April Constitution, (1935) abandoned the classic Montesquieuan division of power, downgraded the *Sejm's* role and concentrated authority in the hands of the President of the Republic. The evolution towards authoritarianism was accompanied by marked restrictions in the electoral law.

At the outset of World War II, the *Sejm's* last meeting was held on 2 September, 1939; the House declared the desire to defend Poland's independence and unanimously amended the electoral law to enable its Deputies and Senators to enlist in the army. Faced with two aggressors, Germany and the Soviet Union, the State authorities of Poland were forced into exile on 17/18 September, 1939. On 1 December, 1939, upon dissolution of the *Sejm* and the Senate, the President announced that the elections to both Chambers would be held 60 days after the end of the War. During the War, the Polish National Council acted as *Sejm-in-exile*. Thus Poland, having an internationally recognised government and a Parliament in exile, maintained her statehood and continued to exist in legal terms.

At the Yalta Conference (February, 1945), where Europe was divided into spheres of influence, the Three Great Powers agreed that free and unrestricted elections should be held, in Poland at the soonest date possible. However, the election was held not sooner but in January, 1947, being neither free nor unrestricted. The Senate, regarded by the communist authorities as

an aristocratic anachronism, was abolished. Subsequently, the elections to the uni-cameral body were far from being fair and democratic. The elected *Sejms* formally enjoyed far-reaching prerogatives but they neither exercised real power nor, for that matter, represented the nation. Yet, even during these years, the Polish Parliament carried more weight than was the case elsewhere in the communism-dominated region of Europe.

The August, 1980 strikes' wave and the birth of the "Solidarity" launched the process of deep-going political and social change in Poland and in other communist countries. The roundtable agreements of April, 1989 led to partly democratic election on 4 June. As a result, the *Sejm* with 35 per cent of members freely elected emerged and the Senate was re-instituted in a free and democratic election. On 29 December, 1989, the *Sejm* restored the country's historic name—that of the Republic of Poland and its traditional national emblem—the crowned white eagle. It also enacted more than 200 statutes to lay the groundwork for a system of parliamentary democracy and liberal economy. The decision of the *Sejm* to dissolve in mid-term, and the adoption, on 28 June, 1991, of the electoral law providing for proportional representation, enabled the President of the Republic to order the first free parliamentary elections in post-War Poland.

Poland's constitutional framework continues to be based on an interim regulation: in addition to certain provisions of the old Constitution of 1952 (thoroughly amended after 1989), the Constitutional Act of 17 October, 1992 regulating the distribution of power between the executive and the legislative branches of the State, is in force. Additionally, a separate constitutional act (of 23 April, 1992) determines the procedure on drafting of the new Constitution of the Republic of Poland to be adopted by the National Assembly and subsequently endorsed in a referendum.

The principles of the system of government are modelled on those adopted by democratic states: the principle of a democratic state ruled by law, the principle of sovereignty of the nation and the principle of respect for property rights. In terms of the organization of State bodies, substantial emphasis is placed on the principle of the division of power.

The legislative power is vested in a bi-cameral representative institution composed of 460-member *Sejm* and a 100-member Senate (in special cases the two Chambers constitute together the National Assembly). Both emerge from a general election, their term being 4 years. There are provisions for the *Sejm* to be dissolved in mid-term (with the resulting dissolution of the Senate as well). Members of the *Sejm* are grouped in a dozen or so parliamentary caucuses (with 15 or more members) and several circles (grouping fewer than 15 members. The *Sejm* Presidium the Marshal (Speaker) and 5 Vice-Marshals), the Council of Elders and the *Sejm* Committees are the Houses's main bodies. The *Sejm* Presidium guides the parliamentary business of the House and represents it in external contacts. The Marshal chairs the House's sittings, guides the work of the Presidium and performs other statutory functions. He is also the head of the Council of Elders grouping the Vice-Marshals and representatives of other parliamentary groups formed according to an agreement between various caucuses and/or circles. The Council of Elders meets to discuss current parliamentary business.

The *Sejm*'s fundamental powers include: the adoption of statutes (or delegation of certain legislative functions to the Government) and the State budget: the *Sejm* plays a significant role in appointing the Government, supervising it and enforcing its political accountability; the appointment of certain other State bodies (*inter alia*, the judges of the Constitutional Tribunal and of the Tribunal of State, the First President of the Supreme Court and together with the Senate—the Commissioner of Citizens' Rights and the President of the Supreme Chamber of Control), the acceptance of the ratification of important international agreements, the decisions on issues of war and peace. The powers of the Senate are lesser and focus primarily on participation in the legislative process: each statute adopted by the *Sejm* is referred to the Senate which may propose to amend the legislation to reject it in to. Senate proposals may be rejected by the *Sejm* in an absolute majority vote, otherwise the statute is adopted as proposed by the Senate. It must be noted here that the statutes require signature of the President; to override a presidential veto, the adoption of such statute, before promulgation, requires a two-thirds' majority vote of *Sejm*.

The executive consists of the President of the Republic of Poland and the Council of Ministers. The President is chosen in general elections for a term of years (re-election for only one more term is provided for). The President enjoys important powers but to exercise most of them he requires the counter signature of the Prime Minister or the appropriate Minister. While not accountable to the Parliament, the President may be held accountable to the Tribunal of State for violation of the Constitution and/or the statutes, on a motion of the National Assembly carried by a two-thirds' majority vote.

The relations between the *Sejm*, the President and the Government are based on the concept of rationalized parliamentarism; the real purpose of the Act of the 17 October, 1992 was to introduce elements of the rational order of the State. Generally speaking, the powers of the Parliament, the President and the Government are defined by the respective powers of the *Sejm*. If a stable majority, its strength in excess of one half of the total number of Deputies, is there in the *Sejm*, the House enjoys its primary role in the legislative process as well as in relations with the Government. Lacking such a majority, in particular with the presence of the "negative majority", the powers of the President increase allowing him - with the activation of his "reserve power"—to decide on the destiny of the Government and Parliament.

The rational approach to Government is evident in the procedure of its formation: the President appoints the Government, but it must obtain a vote of confidence from the *Sejm*. Having granted such vote, the *Sejm* may appoint "its" Prime Minister and, on his/her submission, the other members of Government. The President must give his assent to these decisions if they are supported by an absolute majority of the *Sejm* members. If no such majority can be mustered the initiative to appoint the Government returns to the President. Finally, a presidential government may be appointed and the *Sejm* duly dissolved. The provisions for the Government's accountability to Parliamentary are similar.

The *Sejm* may, at any time, adopt a "constructive" vote of no confidence appointing—by an absolute majority vote—a new Prime Minister and a Government, and such decision is binding

on the President. But, if a vote of no-confidence is not accompanied by the formation of a new Government by the *Sejm*, the President may dissolve the *Sejm*. Evidently, the right to dissolve the Parliament is limited; also, the President may dissolve the *Sejm* upon its failure to adopt a State budget in time. Thus, the dualism of the Polish constitutional system is evident: the presence, or absence, of a stable majority in the Parliament results in two sets of relations between the legislative and the executive—with the Government either parliamentary or presidential.

THE NATIONAL ASSEMBLY OF VIETNAM

Tran Xuan Anh

Through many serious long lasting, historical trials finally the Vietnamese people gained independence and reunified the country. However, only in the recent years have the Vietnamese people been able to really enjoy peace and have conditions to focus on reconstruction of the country, step by step and get out of the state of underdevelopment.

From 1986, Vietnam has been carrying out the cause of renovation in all fields in order to build a country of "peace, unity, democracy and prosperity".

Economically, Vietnam put forth "a strategy for stabilization and development of economy, culture and society up of the year 2000" aimed at shifting from a bureaucratic, centralized, subsidy-based economy that resulted from a long period in war into a multi-sectoral commodity economy driven by market mechanism with state management. The National Assembly has promulgated a number of laws : law on the uses of land, law on setting up companies, investment law, etc. in order to liberate the production forces

Thanks to the policy of renovations, step by step we have been able to overcome trials and hardship and stabilize the situation.

Particularly, in 1992, we have fulfilled all the main planned targets. Compared to 1991, in 1992 GNP increased 5 percent; industrial output by 14.5 to 15 percent ; food output to 24 million tones of rice, two times greater than the first year when we gained liberation of the country.

To some extent the Vietnamese economy has met the vital demands of goods and materials. Commodity goods are plentiful in the market; external economic relations have been expanded; inflation has been controlled; the value of the Vietnamese currency is stable. These achievements give momentum for development. Together with renovation in economic field we have been carrying out renovation in activities of the political system as well as to ensure that all power belong to people. We have set up a law governing state, a state of the people, for the people and by the people.

In 1992, the National Assembly ratified a new Constitution: the Constitution of Vietnam in the period of renovations. On the basis of this new Constitution, we promulgated the law on organization of National Assembly, conducted the election of, Ninth National Assembly (in July, 1992), and other state organs in accordance with the situation. As provided by the Constitution, the National Assembly is the supreme representative organ of people and supreme state power organ and the only one which has the right to promulgate Constitution and legislation and determine important problems of the internal and external policy of the country and supervise the abeyance of legislation and resolution of the National Assembly. In organization and activities of the National Assembly, there are some changes such as : increasing standing members, establishing the Standing Committee of the National Assembly which discharges the function of the National Assembly in the period between the National Assembly sessions, giving a pushing to the activities of deputies' offices in every locality, collecting opinions of people on the draft laws and orders, increasing the number of young and knowledgeable members, etc. The Council of Nationalities and the seven Committees of National

Assembly are carrying out the process of legislation and supervision in order to ensure that the National Assembly resolutions are translated into reality.

That is why the activities of the National Assembly, particularly in the sessions, draw more and more mass attention. The Ninth National Assembly ratified laws and orders mainly in the economic field and the programme of construction laws and orders in 1993. These are the initial results on the road of renovations but the National Assembly still has much work to do so as to meet the demands of the new tasks. On international relations, the Vietnamese National Assembly wishes to expand friendship and co-operation relations with all nations in the International community, first and foremost with neighbouring countries in the Asian—Pacific Region. In recent years, the relations between Vietnam and ASEAN, European Community and other countries and international organizations have been strengthened in all fields. Normalization of the relations between China and Vietnam in 1991 marked a new stage in the relations between the two countries serving the interests of the two peoples of peace and stability in the region and in the world.

The Vietnamese National Assembly has close relations of co-operation with the IPU and the National Groups of the countries in the region. The Vietnamese National Assembly is a member of IPU and also the observer of AIPO and APPU. By strengthening the relations of co-operation with the Parliaments of many countries in all fields, the theme of the "Parliamentary Diplomacy" which was discussed in the 87th and 88th Conferences of IPU has been put into operation by the Vietnamese National Assembly.

Due to its significant contribution in the cause of renovations, the Vietnamese National Assembly has been highly appreciated and welcomed by the Vietnamese people and its international friends. With these achievements, we are fully confident that our renovation cause will be successful and that the Vietnamese National Assembly will fulfil its mission of legislative representation of the Vietnamese people.

POLITICAL SYSTEM IN ZAMBIA

Zambia became an independent Republic on 24 October, 1964, under a multi-party system of Government.

Eight years later, on 25 February, 1972, the then ruling United National Independence Party. (UNIP) Government decided to announce the introduction of a one-party State. The decision was said to have been arrived at to end the alleged inter-party strife in the country. Therefore, on 13 December, 1972, Zambia became a *de facto* one-party State, thus also making Parliament a one-party one. This period is known as the Second Republic.

It was not until 1990 that the people of Zambia demanded to revert to the multi-party system of Government. This was after recognising that the one-party system could no longer support democracy and economic development in the country. For this reason, the Government began to institute political reforms to meet the people's demands. Subsequently, in December, 1990, a Bill passed as Act No. 20 of 1990 which amended Article 4 of the Constitution to allow the country to revert to the multi-party system.

The Bill also amended Article 64 of the Constitution to provide for the increase of seats in Parliament from 125 elective

Research Department of the National Assembly

and 10 nominated seats in the one-party Parliament to 150 elective and 8 nominated seats in the multi-party system.

With the adoption of the multi-party system of Government and the repeal of the one-party State Constitution of Zambia Act, 1973, a new Constitution which instituted democratic changes in the political system in Zambia came into effect on 24 August, 1991.

Under the current Constitution, the President of the Republic of Zambia is the Head of State and of the Government. He is also the Command-in-Chief of the defence forces. The executive powers of the Republic are vested in the President and subject to the other provisions of this Constitution, the President exercises these powers either directly or through officers subordinate to him. Despite all this power the President exercises, one of the most important amendments that have already been effected is the constitutional provision to limit the terms of office that any one person can service in the Office of President. While in the one-party system, the President could rule for an indefinite period, the current constitutional provision has limited this Presidential terms of office to two five-year terms.

The Presidential governs, the country with the help of a Cabinet which has power to formulate and implement the policies of the Government. It is also responsible for advising the President on all matters of national importance which may be referred to it by the President.

During the process of formulating and implementing these policies, the Cabinet is collectively accountable to the National Assembly of Zambia. In the one-party system, it was the ruling party's Central Committee that formulated Government policy. The Cabinet's role was merely to implement this policy.

Parliament

The Zambian Parliament is another important representative institution in the political system in Zambia. The legislative powers of the Republic are vested in Parliament which consists of the President, Mr. Speaker, one hundred and fifty elected Members and eight nominated Members.

Parliament derives its authority from the following: the Constitution of Zambia, the National Assembly (Powers and Privileges) Act, Cap. 17 of the Laws of Zambia, and the National Assembly of Zambia Standing Orders. The other sources of authority are the Speaker's decisions and rules of practice and procedure which have been made over the years to meet local conditions. In cases where there is a difference of opinion regarding the interpretation of rules, the Speaker decides, taking into account the customs and usages of the National Assembly since its inception, including the relevant practices in other Commonwealth Parliaments.

Judiciary

The Judiciary is another important representative institution in the political system of Zambia. It consists of the Supreme Court of Zambia, the High Court of Zambia and such other courts as may be prescribed by an Act of Parliament.

The Judicature's independence is not only provided for in the current Constitution but its Chief Justice and Supreme Court Judges are appointed by the President subject to ratification by the National Assembly of Zambia. Further, the Government cannot interfere in a case which is in a court of law. All the court judgments are binding and respected by the Executive. The National Assembly also does not discuss cases which are in court for fear of prejudicing the outcome.

Local Government

In Zambia, local government is another important representative institution in the political system. The Local Government Act No. 22 of 1991, empowers the Minister of Local Government and Housing to establish for any district a city council, municipal council or district council.

These councils are run by a number of councillors, headed by a Mayor or a Chairman, who are democratically elected on the ticket of the various political parties. After their election, they are supposed to represent all the people's interests and expectations.

The councils' primary responsibility is to provide services such as water, sanitation, fire and road service within their locali-

ties. They are, therefore, an important wing that supports the policies and development programmes of the Central Government. They have power to impose fees for their services, acquire land within their areas of jurisdiction and many other rights in the interests of their communities.

Parliamentary Functions

The traditional functions of the **Zambian Parliament** are that of law-making, authorising Government expenditure and overseeing the activities of the Executive and other public agencies where the Government has an interest.

In exercising its role of law-making, the major tool Parliament uses is the **Republican Constitution**. Under Article 62, Parliament is empowered to make the laws of the country. No other organ in the political set-up has this power. Even the authority to issue Statutory Instruments comes from Parliament. Although the Bills are normally initiated by the Executive or individual Members, it is Parliament which has the power to accept or reject them.

Parliament also uses the Constitution to back up its powers. As a result, no Government Ministry or agency can spend public money without the approval of Parliament. This is as provided in Articles 100 to 104. This is why even though the Estimates of Expenditure and Revenue are drawn up by Ministries, their approval is done by Parliament. This gives Parliament an opportunity to take the Government to task over its financial demands. In other words, Budget debates, provide the House with a chance to criticise the general performance of the Government with regard to public spending.

The Committee system has also been used in making the Government accountable for its activities. The Parliament of Zambia has two types of Committees, generally known as the House Committees and Investigatory or "watchdog" Committees. The House Committees are mainly concerned with the welfare of Members while the "watchdog" Committees oversee Government activities. Among the notable Committees on scrutinizing Government activities are the Public Accounts Committee, Committee on Paras-tatal Bodies and Committee on Local Government Administration.

These Committees make comments and recommendations to the House. On the consideration of their reports by the House, motions may be made expressing agreement or otherwise. By convention, the recommendations contained in the Parliamentary Committees' Reports ought to be implemented by the affected departments or Ministries. It is regarded as objectionable for a department to ignore a recommendation of a Parliamentary Committee.

In executing its last role of overseeing the activities of the Executive, Parliament uses several other techniques, among them Parliamentary Questions, Ministerial Statements and Motions. the Zambian Parliament also approves and ratifies appointments made by the President and ratifies Treaties with foreign countries.

The Electoral Process in Zambia

There are three main categories of elections that are held in Zambia; these are, the Presidential, Parliamentary and Local Government elections. Presidential and Parliamentary elections are conducted by an Electoral Commission appointed by the President for that purpose under Article 76 of the constitution of Zambia. Local Government elections are also conducted by an Electoral Commission (the Local Government Electoral Commission) appointed by the Minister of Local Government and Housing.

Article 75 of the Constitution of Zambia stipulates that every citizen of Zambia who has attained the age of eighteen years shall, unless disqualified by Parliament, be entitled to register as a voter for the purpose of elections to the National Assembly. Consequently, every registered voter, unless again disqualified by Parliament, shall be entitled to vote in such elections.

Presidential Elections

Constitutionally, elections to the office of President are held every five years after the dissolution of the National Assembly. they can also be held extra-ordinarily if a vacancy occurs in the office of the President by reason of death, resignation or otherwise within six months from the date of the office becoming vacant. The elections are by universal adult suffrage and by secret ballot.

All those candidates that do successfully file in their nomination papers are given election symbols by the Elections Office. This information is transmitted to the electorate mostly through campaigns. Finally, on a prescribed day, time and places (which are called Polling Stations), elections are held. All persons registered in Zambia as voters for the purpose of elections to the National Assembly are entitled to vote in these elections.

After the expiration of the time fixed for polling, the votes cast are counted and the Returning Officer declares the results. If at the initial poll, one presidential candidate receives more than fifty percent of the valid votes cast the Returning Officer declares him to be elected as President. If, on the other hand, there is no presidential candidate who receives more than fifty per cent of the valid votes cast at the initial poll, further elections are taken.

If, at the second poll, there is still no presidential candidate who receives more than fifty per cent of the valid votes cast, or there are two presidential candidates who have an equal number of votes, the Returning Officer reports to the incumbent President who summons Parliament to elect the new President. He submits to the National Assembly the names of those candidates who received the highest and the next highest number of valid votes cast or the names of the presidential candidates who have received an equal number of votes. A Session of the National Assembly is then held specifically for the purpose of electing the President. At the session, the presidential candidate who receives the greatest number of the valid votes cast by the Members of the National Assembly is then declared President.

Article 34 (3) of the Constitution of Zambia sets forth the requirements for a person to qualify to be a candidate for election as President as follows:

A person shall qualify to be a candidate for election as President if he :

- (a) is a citizen of Zambia;
 - (b) has attained the age of thirty-five years;
 - (c) is a member of, or is sponsored by, a political party;
- and

- (d) is otherwise qualified to be elected as a member of the National Assembly.

Presidential candidates are required, by Article 34(3) of the Constitution, to deliver their nomination papers to the Returning Officer who, in this case is the Chief Justice of the country, at a prescribed time, day and place upon payment of a prescribed election fee.

Article 34 (5) states that a Presidential candidate shall not be entitled to take part in an election unless :

- (a) he has paid a prescribed election fee;
- (b) he makes, by statutory declaration which shall be open to public inspection at a prescribed time and place, a full declaration of his assets and liabilities; and
- (c) his nomination is supported by not less than 200 registered voters.

Where there is only one qualified presidential candidate nominated for election, then that candidate will automatically be declared as the elected President without an election taking place. He will have been elected unopposed.

A person elected to the office of President assumes that office on the day upon which he is elected and sworn in by the Chief Justice who performs the functions of Returning Officer during presidential elections. Upon being elected, every President is constitutionally mandated to hold that office for a period of five years. After holding the office of President for two terms of five years each, no person is eligible for re-election to that office.

Parliamentary Elections

Parliamentary elections are held simultaneously with presidential elections. For purposes of parliamentary elections, the country is divided into constituencies by an Electoral Commission appointed by the President under Article 76 of the Constitution which states that the President shall establish an Electoral Commission:

- (a) whenever Parliament is dissolved or he otherwise considers it to be necessary;
- (b) at such times, being not less than eight or more than ten years since the boundaries of the constituencies were last reviewed as he may from time to time appoint;
- (c) whenever the number of seats in the National Assembly have been altered; and
- (d) whenever a census of the population has been held in pursuance of any law.

At present, there are one hundred and fifty constituencies in the country and regulations are that each constituency shall only elect one Member of Parliament. Like presidential elections, parliamentary elections are held after every five years and are by direct universal adult suffrage and by secret ballot.

Article 64 of the Constitution of Zambia stipulates that a person shall be qualified to be elected as a member of the National Assembly if, and shall not be qualified to be elected, unless:-

- (a) he is a citizen of Zambia;
- (b) he has attained the age of twenty-one years; and
- (c) he is literate and conversant with the official language of Zambia (which is English).

Article 65 (1) of the Constitution goes on to say that no person shall be qualified to be elected as a member of the National Assembly:

- (a) who is under a declaration of allegiance to some country other than Zambia;
- (b) who is, under any law in force in Zambia, adjudged or otherwise declared to be of unsound mind;
- (c) who is under sentence of death imposed on him by a court in Zambia or a sentence of imprisonment, by whatever name called, imposed on him by such a court or submitted by a competent authority for some other sen-

tence imposed on him by such a court;

- (d) who is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Zambia;
- (e) whose freedom of movement is restricted, or who is detained, under the authority of law; or
- (f) who, within a period of five years before his nomination for election, has served a sentence of imprisonment for a criminal offence.

Article 65 (5) continues to say that no person holding or acting in any post, office or appointment:

- (a) in the Defence Force, the Combined Cadet Force, the Zambia National Service or any other force or service established for the preservation of security in Zambia;
- (b) in the Zambia Police Force, the Zambia Police Reserve, the Zambia Security Intelligence Service, the Anti-Corruption Commission, the Zambia Prison Service or in any other force or service established for the preservation of security in Zambia;
- (c) in the Public Service;
- (d) in the Teaching Service; or
- (e) prescribed in that behalf or under an Act of Parliament;

shall be qualified for election as a member of the National Assembly.

Any person who meets the stated conditions is eligible to stand as candidate for election to the National Assembly. These candidates are then expected to deliver their nominations to Returning Officers appointed by the Electoral Commission on a prescribed day, place and time. The nominations only become valid if the candidates have paid a prescribed election fee and are supported by not less than nine persons registered as voters in the constituencies in which the candidates stand.

Elections are finally held in which all the registered voters in each constituency are entitled to vote. At the close of the polls,

ballot boxes are taken to central places in each constituency where the votes are counted in the presence of election agents and candidates themselves. The results are finally announced indicating the number of votes each candidate in each constituency has polled. The winning candidates are then declared elected Members of the National Assembly.

Local Government Elections

For purposes of these elections, the Local Government Electoral Commission divides council areas into wards. Qualifications for election to ward councillors are similar to those for election to the National Assembly except that each candidate has to be a resident of the ward in which he is contesting the elections. Voting is again by direct universal adult suffrage and by secret ballot in which all registered voters in each ward are entitled to vote. In each council area, the elected councillors elect, amongst themselves, Mayors or Chairmen depending on the status of the various councils.

AUTOMATED DATA BANK OF LEGAL INFORMATION IN UKRAINIAN

Mykola Shvets

In order to raise the substantive level of drafts of laws, declarations and resolutions, and to accelerate the legislative process, it is necessary to introduce modern scientific methods and means of data processing in order to advance the technology of law making. This process is known to proceed continuously and can be illustrated by the following diagram:

This illustrates that the multi-aspect information processing in the legislative process includes some phases of technological operations.

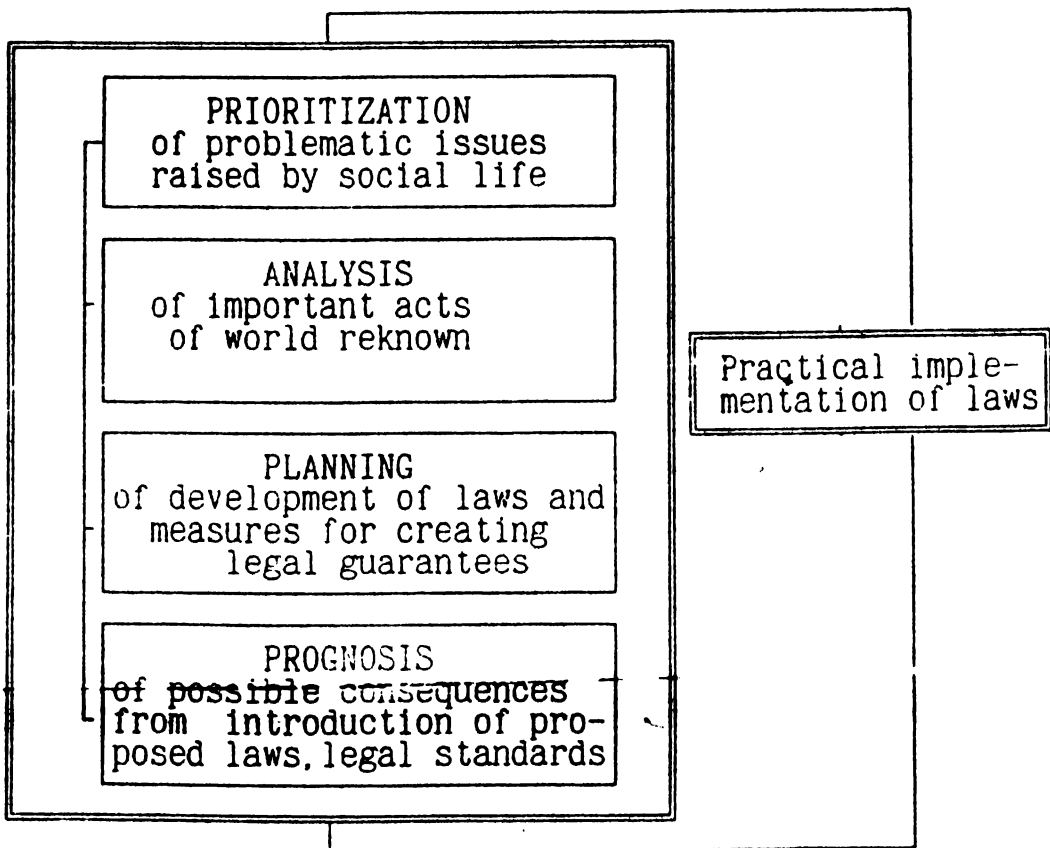
If one considers these phases of the legislative process in space and time context and in connection with the organizational structure of the legislative and executive branches in Ukraine, then data flow can be illustrated as shown in Diagram 2.]

For complete and timely data accumulation for integration for integration into the process of formation of legal standards

Legislative body

data flow

Executive body



standard documents
Diagram 1

using modern scientific methods, software and hardware, it is necessary to have a data base which covers all information about social problems and processes; modern methods of socio-economic process simulation and appropriate software; a highly professional staff; and computer systems and communication facilities.

As far as establishing such a framework in Ukraine is concerned, much work has already been done, but it is only the initial phase.

The main link in the development of computerized legislative services must be the *National territorially-distributed Automated Bank of Legal Information (NABLI)*.

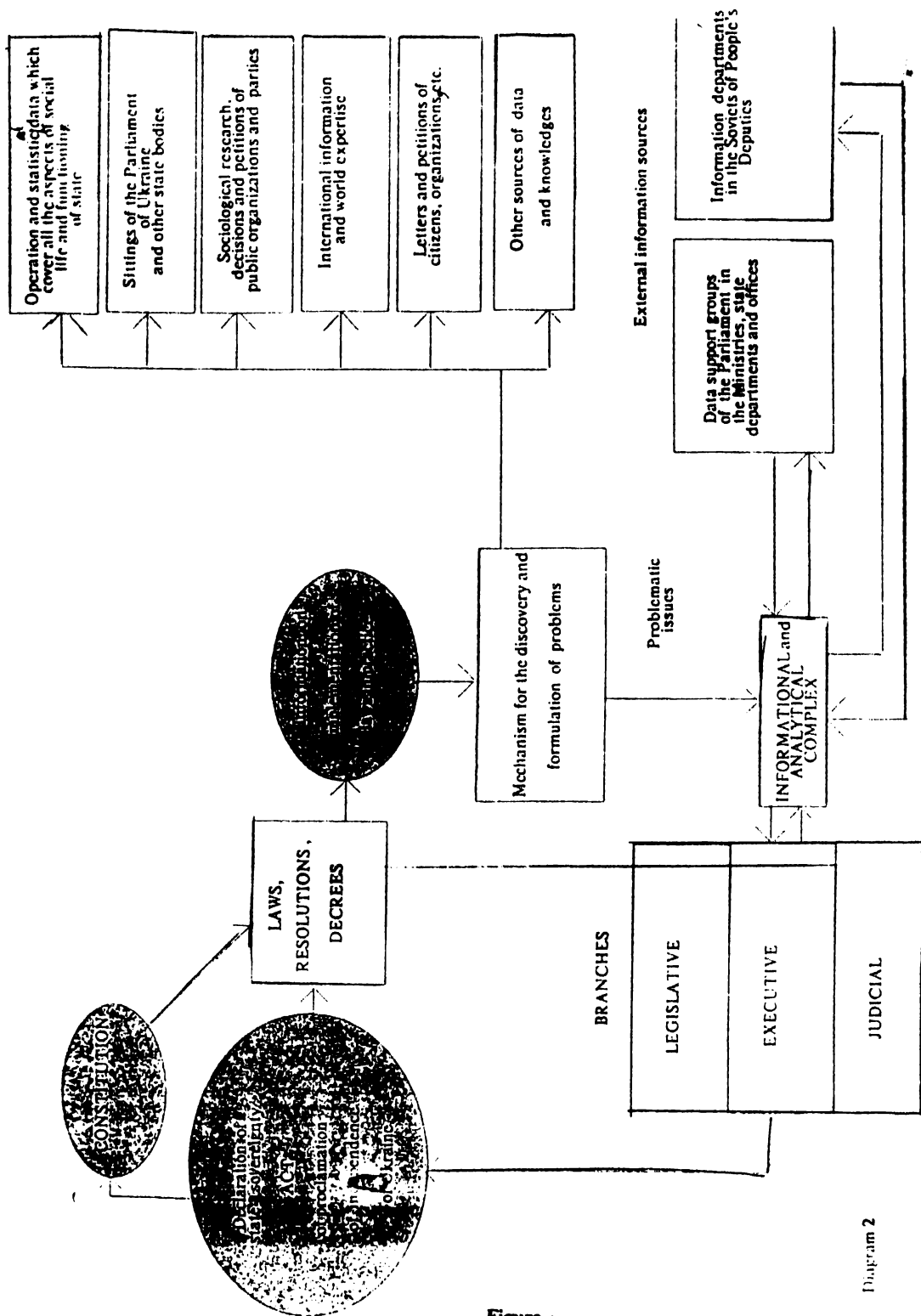


Figure 1

Diagram 2

Creation of NABLI began in Ukraine in 1991. Part of it serves high levels of Parliament and already is active, but advancement of the implementation field is restrained by lack of hardware and other resources. Lack of a special state programme for NABLI development also restrains its implementation.

NABLI includes texts of laws, decrees, resolutions, instructions and other legal documents, including regulations. NABLI will be developed stage by stage and will include sub-systems, interrelated complexes, and 'Zakonoproekt' (Draft), 'Zakonodavstvo' (Legislation), etc.

The initial phase of the computerized legislative system ('Zakonoproekt' (Draft) consists of PC-based workstations (WS), connected into a Local Area Network (LAN). This enables the users of WSs to communicate with each other over distance. A draft of a law, having been stored in the computer information system, is available for collective debate; *i.e.* it can be retrieved and displayed on the screens of all the PCs in the system by all users who would like or must use documents.

After implementation of this paperless technology, every proposal, draft of a law or other document can be reviewed and criticized by the public at large. A law can be debated while taking into account and integrating alternatives, readying the bill for its first reading, and forming comparative tables, etc. While publicly debated, the drafts can be read from the displays of the PCs and, during Sessions of the Parliament of Ukraine, texts may be displayed on large indicator boards.

After the bill is edited, accepted and appropriately ratified, the final text of the law replaces the previous draft in the computer information system.

Thus, the 'Zakonoproekt' (Draft) system should encompass all legislative work throughout their formation process, from the time the problem becomes a priority legal issue, to the collecting of proposals, and drafting the legislative act until its complete judicial formation.

The registered law, resolution, or decree then is implemented in practice. Again, the results of legal standards implementation are being accumulation. Appropriate bodies control im-

plementation. Problem issues again are spotted and analysed, new laws are drafted or revised, possible consequences of such innovations are prognosed, law-making is improved, and the base of a legal democratic state is formed. Depending on the importance of problem to be resolved, situation and public opinion, a considerable number of co-authors can participate in the process of drafting laws and other legal acts. In this process, the decisive role, without doubt, belongs to law-makers, their skills and experience.

Ratified laws, decrees, and resolutions, stored in this computer information system, can be appropriately arranged and indexed to form a public, automated data bank or, briefly, a 'Zakonodavstvo' (Legislation) system. The wide circle of users of this data bank—legislative and executive government bodies, citizens, Enterprises, offices, which have PCs, a data base and user's manuals for the 'Zakonodavstvo' (Legislation) system—are able to network with this system. A number of organizational and technical measures are envisaged to provide users in Ukraine and abroad with wide and effective access to the legal acts. Among such measures are: electronic mail facilities, copying of data on to floppy discs, distribution of these discs, as well as automatic distribution of computer data through the electronic newspaper 'Everything for everyone' and so on.

An important part of the computerization of the legislation is an information process which include transcription of speeches given at sessions of the Parliament of Ukraine; stenographic records processing; and preparation of laws, resolutions, bulletins and other documents for publication. The components of this computerized complex are the workstations (WS) : 'Stenographic bureau,' 'Control of proposals implementation,' 'Editor,' 'Translator,' 'Desk top publishing,' etc.

During the meetings of legislative and executive bodies, obviously many proposals and assignments are introduced which should be completed and conveyed to the proper functionaries and their implementation should be supervised by the appropriate officials and/or agencies.

Special WS should be developed for this purpose in order to guarantee that proposals, ideas, formulated problems and assignments reach the appropriate functionaries and are not lost in uncontrolled information flow.

The computerized information and analytic system for processing letters, applications, proposals, and complaints from citizens, public organizations and others is important as the analysis of such a volume of data (the Secretariat of the Parliament itself receives more than 200,000 such pieces yearly) allows examination of social processes, their change over time, their inter-relations with laws and legal standards which, in their turn, require improvements of some laws.

In addition to this, the letter-processing system saves time and labour expended for operations such as searches for duplicative letters, analysis of executive discipline and responses to proposal letters, complaints in various areas, offices, etc.

Establishment of legal standards and of laws requires processing of a large quantum of information: therefore, various computer information systems and data bases are needed for analytical services. The number of external and internal information sources form the background necessary for standard-creation. These data and knowledge bases are found at various management levels and are territorially distributed through legislative and executive bodies, scientific and research departments. Ministries, offices, libraries, archives, information centers and local and foreign agencies. Currently, the following services are found in the Secretariat of the Parliament of Ukraine:

'Zakonoproekt' (Draft)—computer processing of the drafts of standard acts through all their stages; from initial text to final edited version, retification and appropriate formation;

'Zakonodavstvo Ukraïny' (Ukraine Legislation)—automated base of the laws of Ukraine, Presidential decrees and orders, and resolutions of the Cabinet of Ministers;

'Zakonodavstvo zarubijnykh krajin' (Foreign Legislation)—texts of foreign laws on floppy disks and data bases;

'Biblioteka' (Library)—computer bibliographic catalogue.

'Metabasa' (Metabase)—reference system of data base contents and addresses of their owners;

'Informatsijni agentstva' (Information agencies)—data base of accessible world information agencies which provide information searches for subscribers;

'Fahivtzi' (Experts)—data base which stores data regarding 8 thousand doctors of sciency working in Ukraine and also of scientific departments, all of which can be included in the legislative draft process and the drafting of other documents, including their examination;

'Statistica' (Statistics)—system povidng on-line user access to the information bases in the computer centres of the Ministries of Statistics, Economics and other offices and departments;

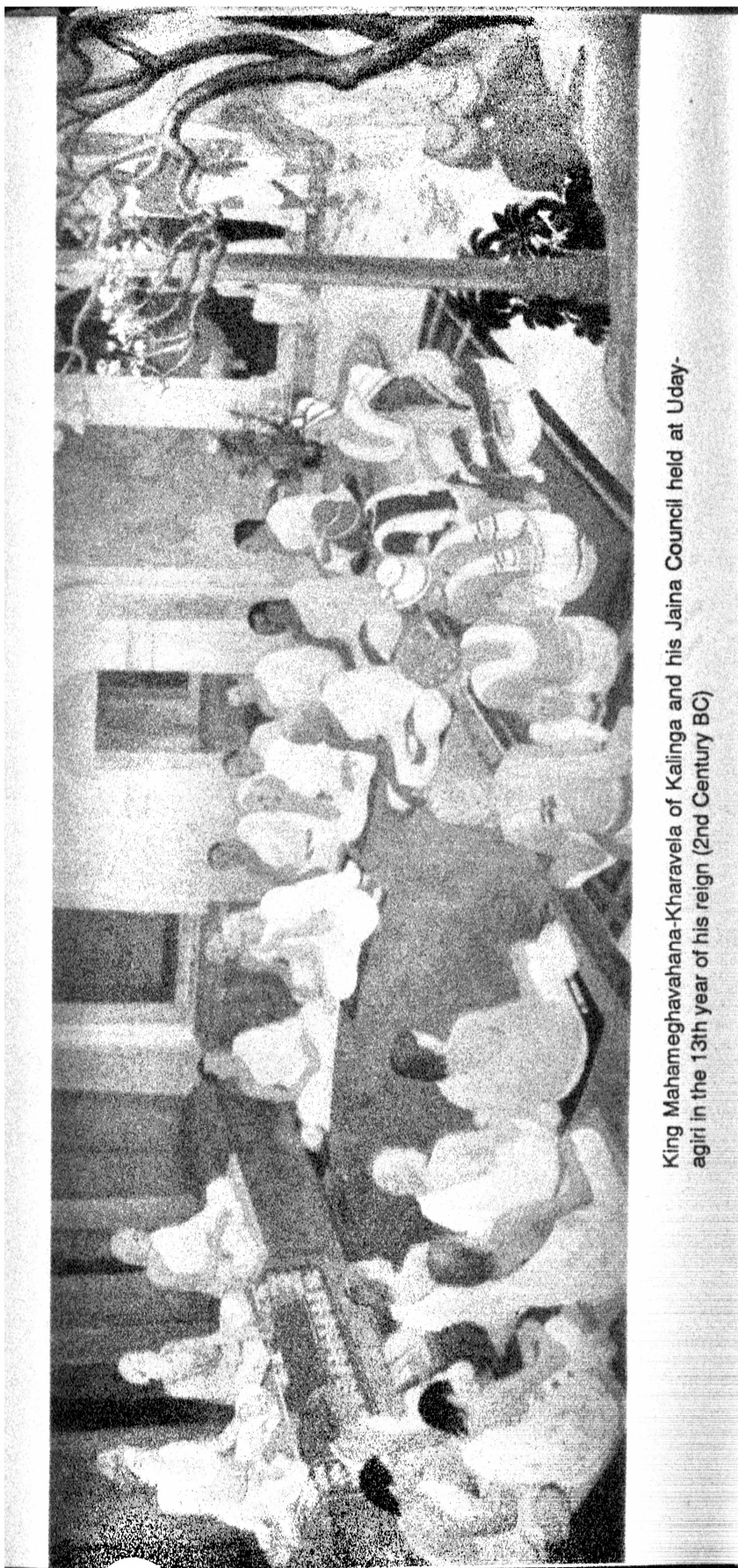
'Rada' (Parliament)—computer system supporting Parliamentary sessions;

'Office systems and separate tasks' (control of completion of assignments, processing of correspondence and letters from citizens, translation, etc.).

Subscribers are able to recive information through: local area networks; e-mail; and floppy disks.

The Centre has a wide area network with users both in Ukraine and abroad, with which registered subscribers can exchange data and take part in tele-conferences.

Legislative and executive bodies, including regional and municipal levels, shoudl be able to use these and other information bases. However, to achieve this goal it is neccessary to establish an appropriate programme for the development of the National territorially-distributed automated bank of legal information, to obtain financial and technical support - all of which may take some period of time.



King Mahameghavahana-Kharavela of Kalinga and his Jaina Council held at Udayagiri in the 13th year of his reign (2nd Century BC)

सं जनीष्वं सं पृच्यष्वं सं वो मनोसि जानताम् ।
देवा भागं यथा पूर्वे संजानाना उपासते ॥ १ ॥

समानो मन्त्रः समितिः समानी समानं व्रतं सह चिचर्मेणाम् ।
समानेन वो हविषा जुहोमि समानं चेतो अभिसंविश्वम् ॥ २ ॥

समानी व आकूतिः समाना हृदयानि वः ।
समानमस्तु वो मनो यथा वः सुसहासति ॥ ३ ॥

Do ye concur; be ye closely combined; let your minds be concurrent, as the gods of old sat concurrent about their portion.

(Be) their counsel (mantra) the same, their gathering the same, their course (vrata) the same, their intent alike (saha); I offer for you with the same oblation; do ye enter together into the same thought (cetas).

Be your design the same, your hearts the same, your mind the same, that it may be well for you together.

THE ATHARVA-VEDA-SAMHITA.

PART — II

DEMOCRACY IN INDIA

ROLE AND EXPERIENCE OF MEMBERS OF PARLIAMENT IN THE COMMITTEES

S.B. Chavan

The Parliamentary system of Government adopted by our Constitution is patterned on the British model and our Cabinet system of Executive Government answerable to the House of the People is also based on that model. As the system of Committees organised for our Parliament is also based on the British precedent, subject to a few modifications, it will be useful at the outset to refer briefly to the British system.

In the United Kingdom, the practice of delegating to small bodies of members, called Committees, the consideration of questions involving points of detail or of technical nature which cannot be satisfactorily dealt with in the House as a whole, is as old as the adoption of settled procedure by the British Parliament. Each of the two Houses of Parliament in the United Kingdom possesses an organised system of Committees such as the Select Committees, the Standing Committees on Private Bills, etc. Sometimes the whole House sits as a Committee presided over by a Chairman other than the Speaker and the great advantage is that the proceedings are less formal than those in the regular House of Parlia-

ment. The flexible Rules of Procedure adopted by such Committees have helped Parliament in dealing with complicated legislative business. But generally, the Committees are composed of smaller groups of members with specific functions. All matters relating to the procedure, functions and powers of the Committees of the British Parliament are regulated by the Rules of Procedure. This system has been continuing in that country all through the years and has been found very useful.

In India too, the system of Committees has been in vogue not only from the commencement of the Constitution but even earlier, during the British regime, when the Indian Legislature was governed by the provisions in the Government of India Acts 1919 and 1935 enacted by the British Parliament. Even then, all matters relating to the organisation, powers, functions and the role of these Committees were regulated by rules. This system has continued under the Constitution made by ourselves. It is very significant that the Constitution itself makes a specific reference to the Committees of Parliament in article 105 which deals with the powers, privileges and immunities of the Houses of Parliament, and makes it clear that the Committees of the Houses and the members of such Committees are in the same position as the House itself. In particular, the freedom of speech and the privileges of the members of the Committee are the same as those of the members of the House. In this respect, under our Constitution, the role of the Committee and its members are given the same constitutional importance as that of the House and members thereof.

All matters relating to the Committees, including their organisation, functions, powers, tenure of members, etc. are governed by the rules of the respective House. These rules provide for several types of Committees and give complete details as to how they are formed, the tenure of members, the functions, etc.

There are broadly two categories of Committees, namely, Standing Committees and the *Ad hoc* Committees. A brief mention of the functions of some of these Committees may be useful to indicate how and in what manner they assist the Parliament in performing its vital role in our democracy, as disclosed in my own experience as a member of Parliament for a very long period. Among Standing Committees may be mentioned, as illustration,

the Public Accounts Committee, the Estimates Committee, the Committee on Assurances, and the Committee on Subordinate Legislation.

The Public Accounts Committee helps Parliament in its important role of exercising control over financial and administrative powers exercised by the Government. This Committee has always been considered as very important and it goes deeply into the question whether the moneys voted by Parliament are actually spent on the intended purposes with due regard to the economy. But for the vigilance exercised by this Committee, there will be nothing to control the Executive in spending money from the exchequer in any manner it chooses. In this task, the Comptroller and Auditor-General plays a leading role by scrutinising and examining the accounts of the various Ministries, bodies, etc. and by preparing materials to help the Committee to satisfy itself as to the proper spending of the public moneys. The Estimates Committee is intended to deal with the estimates of expenditure with a view to suggesting economies and improving efficiency in the financial management. In my experience, the Estimates Committee has on several occasions made very useful suggestions for better organisation of work to secure efficiency and economy and the Government has benefited considerably by the recommendations of this Committee. It is an admitted fact that the Departments of the Government are very careful in ensuring that they do not come under adverse notice by these two Committees and this keeps them in check.

The Committee on Assurances goes into the implementation of Assurances given by the Government to the members of Parliament. Obviously, this is a very important aspect of Parliamentary control. Similarly, the Committee on Subordinate Legislation scrutinises the exercise of legislative powers delegated by Parliament to the executive, such as rules and regulations and statutory orders. These two Committees perform watch-dog functions over the activities of the Government departments to ensure, respectively, that what they have assured the Parliament is fulfilled and that they keep within the limits of their authority conferred under the laws.

Among the *Ad hoc* Committees, the most important are the Select Committee or Joint Select Committee of a House of Parliament which scrutinises the legislative Bills referred to them with a view to examining in detail all the aspects of the proposed law. Experience has shown that such Committees are extremely useful in ensuring proper scrutiny and careful attention to the details in the enactment of legislation. These Committees often associate the public in the law making process by examining witnesses and conducting discussions with officials and others. The informal atmosphere in the meetings of these Committees helps the members to ascertain first hand from the officers of Government as well as from experts and other interested persons the necessary inputs to decide about the issues involved in the Bill. Very important and lengthy Bills in which great attention and care is called for are usually referred to these Committees. In several cases, the Select Committees have recommended far reaching changes in the original Bill which would not have been possible had the bill been considered by the House itself.

There are some Committees for dealing with matters of day-to-day concern to the House and its members, like the Business Advisory Committee, the Rules Committee, the Committee on Private Members Bills and those concerned with providing facilities like the General Purpose Committee, the House Committee, etc. Obviously, these Committees are of great use to the smooth functioning of Parliament.

In addition to the above, Committees are also set up for examining specifically issues of public importance, such as the recent Parliamentary Committee on what is called the 'Securities Scam'. Such Committees create confidence in the public and the findings of these Committees command respect.

Apart from the above Committees which are provided for under the rules, there is a category of informal Committees of Parliament, the most important of which is the Consultative Committee attached to each Ministry. These Committees play a very important role, particularly in keeping the Parliament in touch with the administration.

The origin of the Consultative Committees can be traced to the Standing Committees set up under the Government of India

Act, 1919. The old Committees functioned in an advisory capacity, to record their opinions for consideration of the Government on matters of policy, etc. However, under the British regime, these Committees did not command sufficient credibility and the system was given up after independence. Later it was realised that it would be useful to have informal Consultative Committees to acquaint members of Parliament with the working of the various Ministries and Departments, to provide them with opportunity for discussion of broad policies of the Government in an informal manner. Such Committees, as they exist today, came into being in 1957. Consultative Committees provide a forum for informal discussion between members, Ministers and senior officials of the Government on the problems and policies of the Government and the working of the administrative Departments in a manner which is not practicable on the floor of the House. The Minister-in-Charge of the Ministry is the Chairman of the Committee. With my experience as a Cabinet Minister of several Ministries including Home, Defence, Planning, Finance and Education, I can unhesitatingly say that these Committees provide the much needed administrative guidance to the Ministries through members of Parliament on the day-to-day functioning of the Government. There are several instances where the Ministries concerned profited by the discussions in these Committees.

The experience of the working of the Committee system in India has proven beyond doubt that it is extremely useful for the smooth and orderly conduct of proceedings in Parliament and also for enabling Parliament to perform its functions, particularly in keeping a check on the Executive in financial, administrative and legislative matters, a role which is implicit in our Parliamentary system of Government.

PARLIAMENT AND SOCIAL CHANGE

Ghulam Nabi Azad

The Preamble to the Constitution of India pronounces the political philosophy of the Indian State. It envisages a society which will ensure justice-social, economic and political—to all its citizens. The Constitution also embodies a set of comprehensive guidelines such as Fundamental Rights and Directive Principles of State Policy to realise the objectives of an egalitarian society and a Welfare State. We have adopted parliamentary democracy as our system of governance and the institution of Parliament is the apex body. The core purpose of democracy and all the programmes and policies of the Government is to improve the lot of the common man. In our country, with its characteristic circumstances, development has become central to the democratic ethos and Parliament being the supreme representational institution has to fulfil a new role expectation, *i.e.* as a vehicle of social change, because democracy envisages peaceful transformation of society by the democratic methods of argument, debate and collective decision.

Moreover, Parliament being representational in composition and character, is responsive to the changing needs and problems of the society. It is the highest deliberative forum in which

the representatives of the people articulate their aspirations and grievances and it becomes the responsibility of the Parliament to take timely and appropriate redressal measures to bring out or to facilitate peaceful social change in total deference to the wishes of the people. Keeping in view the ground realities of the Indian society—its mass poverty, illiteracy, centuries' old inequalities, and social, economic and political disparities—the framers of our Constitution incorporated certain concepts and provisions which were designed to bring out a social and economic revolution in a peaceful and democratic manner. The intimate involvement of the State in the social and economic progress of the community has led to a tremendous increase in the range and magnitude of governmental efforts and activities and hence there is a corresponding increase in the responsibilities of Parliament to participate in the process and postulate adequate measures. With the introduction of the concept of planned economy through the Five Year Plans, Parliament has assumed still increasing responsibility for the economic development of the country. Our Parliament has shown a remarkable dynamism as a positive mediating agent of social change. Since democracy implies conciliation, compromise and consensus, so it is the Parliament that creates conducive climate for change by enacting suitable laws, laying down appropriate policies and keeping a close watch on their implementation.

Parliament is a great educator and promotes democratic values in the society. It disseminates information among the people and increases their awakening and awareness. It helps in moulding the social consciousness of the people and they become amenable to socio-economic changes. Thus the interaction between the law and the society is opened the continuing.

Since Independence, the Parliament of India has enacted numerous legislative measures intended to bring about changes in the existing system for improving the socio-economic conditions of our people. To enumerate a few, the Estate Duty Act, the Companies Act, the laws relating to the Nationalisation of Airlines, Banks, L.I.C., Coal Mines, Industrial Policy, Gold Control Act, Wealth, Expenditure and Gift Taxes, MRTP Act, FERA, Prevention of Smuggling Activities Act, etc. are legislations which are now only of economic importance but social significance as well.

Parliament has played a crucial role in the direction of social reform (change) by enacting legislation such as the Hindu Marriage Act, the Untouchability (Offences) Act, Hindu Succession Act, Suppression of Immoral Traffic Act, the Dowry Prohibition Act, Child Marriage Act, etc. It has also passed from time to time a number of laws for the promotion of the welfare of industrial workers and for protecting their interests such as the Industrial Dispute Act, Employees' Provident Fund, Compensation for Personal Injuries and Payment of Bonus and Minimum Wages Act.

Quite often, such radical and omnibus legislations having wide social, economic, political ramifications meet still opposition on the floor of Parliament from different quarters. Parliament represents various shades of thought and opinion. People belonging to varied interests, sometimes totally opposed to each other, find a place in Parliament. They are expected to pursue the policy and try to influence the formulation of the policy by the Government, in such a way which is in consonance with their line of approach to different problems at the national and international arena. This heterogeneous character of Parliament makes it imperative that formulation of government policy should receive a smooth passage, of course, through genuine logical discussions and deliberations in Parliament. This could either be in the form of a Bill or Resolution or certain Declarations. This responsibility of ensuring smooth passage and formulation of Government policy across its journey through the two Houses of Parliament is entrusted to the Minister of Parliamentary Affairs who is also the Chief Whip of the Ruling Party. By sensing the mood of the House and its members inside and outside the Chamber, keeping himself abreast of the current events in the legislative premises and through his endeavours, wits and co-ordinated approach with various sections of the House, he plays a pivotal role. He has a nucleus Department under him, known as the Ministry of Parliamentary Affairs which serves as a co-ordinating link between various Ministries of the Government of India on the one hand and the Legislature on the other.

Apart from Minister concerned who pilots the Bill on the floor of the House and who is, of course, primarily responsible for bringing a legislation which echoes the feelings of various shades of opinions, the role of the Minister of Parliamentary Affairs can-

not be under-estimated. He shoulders the responsibility in no less a measure than the Minister concerned and in the event of a legislation meeting the fate other than destined for it, the Minister for Parliamentary Affairs is the first to be held responsible. Similar responsibilities have been entrusted to the institution of Chief Whips and Ministers for Parliamentary Affairs in the State Governments.

In view of the empirical social realities, *i.e.* the pervasive illiteracy, apathy, poverty, lack of awareness, passive contentment, etc., self-generated social change is very unlikely. Therefore, it has to be a directed social change induced through various institutional devices. The role expectations of Legislatures have been to create public policies, co-ordinate conflicting interests, articulate public preferences and achieve public needs. In short, it is for the Legislatures to decide who gets what, when and how.

Not only that the Parliament of India has enacted ordinary legislations of social and economic ramifications, it has also invoked its constituent powers to amend the Constitution to facilitate the enactment and implementation of measures of considerable importance concerning social change. They range from the Abolition of Zamindari and Jagirdari to the 25th Amendment, in some measure, specifying the primacy of Directive Principles of State Policy over Fundamental Rights; the 26th Amendment, specifying Parliament's Powers to vary or revoke conditions of certain privileged services; the 29th and 34th Amendments, affecting the Ninth Schedule, so as to ensure speedy implementation of land-reforms; and the 42nd Amendment in a variety of ways seeking to consolidate and to strengthen the provisions contained in the above said Acts with a view to initiating social legislation and many other Acts safeguarding the interests of down-trodden, backward, Scheduled Caste and Scheduled Tribes, Women, Children and other weaker sections of the society. These measures of social change enacted by the Parliament also show considerable determination and conviction, manifesting the 'will' to effect directed change. It is also equally important to consolidate the political will to implement these measures without which more enactment is not likely to be conducive to or of any consequence for social change. As the Executive responsible for implementation of programmes and policies is accountable and answerable to the Legis-

lature, Parliament therefore exercises tremendous influence in faithful and just implementation of the policies and programmes of the Government.

Besides, directing social change through political and Legislature initiatives, the Parliament, in its performance of many other roles has indirect, intangible and unconceivable influence on the process of social restructuring. It controls the social and political behaviour of the people, creates democratic values, moulds social consciousness and concepts of social re-orientation in the society and spread information to make people aware of the democratic functioning of the Indian polity. This helps in creating a congenial and conductive atmosphere for peaceful and orderly social change. With the declining influence of religions and moral norms in modern times as regulators of human conduct, law becomes the most potent instrument of social control and social change.

Incidentally, it may also be pointed out that since Independence, the Indian society has undergone tremendous change with the spread of education, political awakening and economic development. This change is amply reflected in the composition of the elected House of Parliament. The dominance of urban elite in its membership has slowly and imperceptibly given way to an increased number of agriculturists or people of rural orientation. This is indicative of the change in our rural society.

This does not, however, belittle the operational dimensions of social legislation and the role of various other institutions in the process of social change. In a developing polity like ours collaboration of roles, if not integration, will certainly prove more effective and conductive to social change.

NEW DIMENSIONS OF DEMOCRACY

Krishan Kant

Democracy as a system of Government and as a social system has always attracted critical attention. In the evolution of democracy, new dimensions have been added at different times in our history and the last word on democracy has not yet been said. The contemporary period is a stirring time for democracy. Due to certain recent happenings a great debate has started both in the East and in the West, regarding what democracy should be and what direction it should take.

While Eastern Europe is in ferment in the older democracies of the world, fundamental questions are being asked about capitalism and democracy, and whether certain economic systems are peculiarly compatible with democracy. While there is unceasing joy at the virtual absence of any challenge to the liberal democracies, an intense heart-searching has started as regards the orientation of Western democracies, the pitfalls of individualism and a slow but steady decline of moral and spiritual values in the life of the community. From this crucible of values the democratic system of the future will emerge. I am not in a position to anticipate as to what form it will take, but it surely will be far different from what we have known so far. One thing which looks, however, certain is that the new democracy shall value individual

freedom not in a narrow juristic sense but in a deep spiritual sense. This freedom, as Gandhiji said, 'will be co-extensive with the freedom of man in all his majesty'. The adversary relationship which today characterises the individual and the community will make for a more harmonious relationship between the individual and the society. It shall be a just society governed through just laws in the interest of toiling millions and not the elitist few. More important than anything else, the people shall play a determined and positive role in shaping their destiny guided by not merely considerations of acquisition of wealth but through superior ethical perception of life and society.

Democracy is a system which offers to the individual and the community limitless choices and infinite possibilities. A time has now come for exploring these possibilities and to exercise the several choices. The new democracy shall be the closest equivalent to the just system meant for the 'good life', which Aristotle so eloquently spoke about.

In his latest writings, Mikhail Gorbachev has also been talking about mankind moving towards a new civilization where barriers of all 'isms' will break down and man shall rise in all his spiritual majesty to fulfil his appointed destiny. The debate about certain economic-social system being conducive to democracy, and others not, will become a thing of the past. It is man and man alone who will count.

In India, the changes in the world are beginning to have their impact. The society is agonising to break away from its shackles and find a new path to a resplendent dawn. I have no doubt that through this churning of mind and soul, new ideas will be born and new horizons will emerge, however, dark the sky may now be.

In the last forty years Indian democracy has several ups and downs many people thought that its survival to this day is a miracle of our times. They perhaps forgot to take adequate notice of India as a civilizational entity with a deep spiritual core which influenced its people and its leaders and motivated them to higher action. That is the reason perhaps, even in the midst of dark crisis, rays of hope have suddenly broken out guiding the country

and the society forward.

The main threat to Indian democracy comes from a political culture which places a premium on coercion, money power and muscle-power. These are the elements who use the tools of democracy such as free elections, access to courts and representative government to subvert them and to subordinate them to their will and dictate. Democracy may be a system where rulers are elected by counting heads than by breaking them, yet regrettably it is the latter which now gets more frequently resorted to. Violence is surfacing as a major threat to our system and to our values. What is worse, since violence promises a quicker access to political power an unholy alliance develops between the. Gandhiji had warned as far back as 1981 against taking help of unsocial elements for political and social action. He had also said that if that is not stopped, they will become the rulers of India.

But, democracy has some great strengths. It is impossible to acquire legitimate power without the express will of the people and since it is the will of the people which, through the electoral process, creates condition for the constitution of the Government the will still remains a powerful determinant of the political process. It is for that reason that electoral process in any democratic system becomes the basic process of power.

The electoral process, as the basic process of power, gives the democratic system, its content and flavour and determines its contours. The basic process of power can distort as well as uplift societies, divide as well as unite them. In underdeveloped and developing societies, elections are needed not only to give legitimacy to governments but to make these governments the instruments of change to a new stage of history. Gandhiji's, experiment with non-violence was actually a search for social and political process where the new stage of history could be reached without violence and use of gun. In 1937, when he was asked as to why he had agreed to the Congress assuming power in the States after elections under the Government of India Act, 1935, he said, he considered this process was a substitute for bloody revolution and mass civil disobedience. In his *'Last Will and Testament'*, which he wrote just a day before he was assassinated, he gave the vision and the task of the Government and the State in a politically free

India. It was to strive for social, moral and economic freedom, We should carefully mark his priorities because that saves a clue to his thinking and vision.

So, we have to examine our experience of the working of our democratic system in this perspective and to give a new dimension to it. Why communal and caste divide has widened ? Why has money and muscle power become dominating influences? Why violence has assumed such proportion ? Several states of the Indian Union are affected by insurgency. While we should not denigrate our achievements but we must be deeply cognizant of the evils that are devouring our democracy.

After achieving independence, national attention was given to economic development, to lift our people from the mire of poverty and also to plan our growth. After assessing the working of the Plans and how disparities had grown, Jawaharlal Nehru, while speaking on the working of the Planning Commission, said in Lok Sabha, 'Perhaps it would have been better if we had followed Gandhi'.

Our assumption that economic development was the panacea for all our problems was not borne out by subsequent events. Certain basic questions which Gandhiji had been raising were ignored.

It may be relevant to refer what Gandhiji stated in 1961, after his return to India from South Africa. At the suggestion of Pandit Madan Mohan Mahviya, he was invited to the annual function of the Economic Society of the Muir College of Allahabad University. The head of the Department, English asked Prof. Jevons and Dr. Amarnath Jha, who became Vice Chancellor later, to receive Gandhiji at the railway Station and request him to speak on certain economic theories which were being discussed in the economic circles. When he was asked to refer to these theories in this address to the Economic Society, he frankly said that he had not read economics and did not know anything about these theories. The assembled academicians were stunned.

In the evening when Gandhiji reached the University, he frankly admitted his inadequate understanding of Economics. He said, he had read only one book on Economics and that was the

Bible. Quoting profusely from *Bible* he referred to the well-known story of Christ and his remark that it was easier for a camel to pass through the eye of the needle than for a rich man to enter the gates of heaven. While dilating on the subject he raised two questions which the economists have to deeply ponder over. Does development mean development of man? And further, does economic development mean development of moral man? He further explained his ideas and quoted examples of the degeneration of society amidst growth and prosperity. He said when the Roman empire became prosperous, it degenerated. When Egyptian empire became prosperous it degenerated. A devout devotee of Lord Krishna was bold enough to say that when Lord Krishna's empire became prosperous, it degenerated.

Today, in the last decade of the twentieth century, the moral dimension of economic development is demanding attention. Even Alvin Toffler talks of knowledge, wealth and violence. Both communist and capitalist models create an acquisitive man. Amartya Sen, the internationally renowned economist and thinker has been recently pointing towards the need for looking at the ethical aspect of economic man. If the world has to save itself from disaster, pursuit of profit can scarcely be the primary motivation of a just society. In a brilliant analysis of economics and ethics, Prof. Amartya Sen has argued that the concept of the 'economic man', so dear to the capitalist thinkers, has a deeper ethical dimension. He states that ethics enlarges, and not, constricts, wealth creation: "...economics, as it has emerged, can be made more productive by paying greater and more explicit attention to the ethical considerations that shape human behaviour and judgement'. Capitalist economics, according to Prof. Sen, has lost a good deal 'as a result of distance that has grown between economics and ethics'. Profit maximisation should be understood in terms of its ethical perspective for, as Aristotle had pointed out '....Wealth is evidently not the good we are seeking; for it is merely useful and for the sake of something else.'

The economic dimension of the new orientation of modern democracy will need to re-emphasise its faith in ethical values, so that a higher objective remains in focus even during the mundane, but necessary, pursuit of wealth.

Gandhiji had placed social and moral freedom above economic freedom. Thinkers all over the world have been warning that economic development has brought in its wake conflicts and confrontation between religious, ethnic and racial groups. It has not harmonised them as communities. Economic development raises expectations and aspirations and, in order to achieve quick growth, sections of people begin to consider, indulgence in conflict and violence, legitimate and rewarding.

This moral dimension has to be given its due primacy in the political culture as politics is the dominant and determining culture in under-developed and developing countries. What has happened in India is that political culture is increasingly becoming devoid of morality.

Political culture is the product of the basic process of power. It creates attitudes, mind-sets and psychology of the people. It would become clear if we realise the all powerful character and value of the basic Process of power.

The British partitioned Bengal in 1905 on communal lines. The people of India rose in spontaneous revolt and the imperialist design to partition Bengal was frustrated. But the same Bengal, along with Punjab, was partitioned on communal lines during the formation of Pakistan in 1947. Gandhiji had said that Pakistan would be formed only over his dead body. Ignoring Gandhiji, Pakistan was formed. The question is why Gandhiji and the national movement failed to keep India united in spite of all the sacrifices and a leadership of world order.

The concept of separate electorates and quotas for religious groups in the Legislatures was the root cause of mischief at that Point of time. It divided Indians into Hindus and Muslims and denominational groups. The primary identity of the Indians became religious and sectarian. Lala Lajpat Rai, a national leader of great foresight, had predicted as early as in 1924 that the Muslim majority areas will plump for Pakistan. The logic of the basic process of power made it inevitable. Gandhiji and the national movement were helpless, as they were all prisoners of the basic process of power. Lala Lajpat Rai had written that the rule of the game of power had been set by the British and the nationalist leaders could not do anything about it.

The basic process of power given by the British had two elements: (i) Separate electorate and (ii) First past the post (FPP) where a candidate could win, if he secures more votes than the other candidates. While the separate electorate has completed the mischief with the partition of India, the FPP mode of elections is still haunting our national life.

The implications of the mischief have not been fully understood, nor has its enormity been adequately appreciated.

In the present 'first past the post' system when a candidate can win with a minority of votes, the tendency is to appeal to and exploit, all the possible sub-divisions and groups which have existed for hundreds and thousands of years in our ancient land. Democracy is expected to unite people and communities under a broad umbrella of shared beliefs while still keeping their identities. They are motivated to transcend divisions and make a nation. But the process of power is working against transcendence. The communitarian life, which was the hall-mark of the Indian and the eastern societies, is being shattered. The process imposes the individualism of the western societies. Dr. Lohia has written that in its long history, India had oscillated, between caste and class, and the time has come when it must transcend caste *i.e.* from the consideration of birth, to class as profession. But the process of power is again working in intensifying the birth factor. The growth of casteism and communalism in the country is the natural outcome of the exercise of the basic process of power where the maxim is divide and win. They can be postponed but not prevented. The values of social and political culture are influencing the economic and trade union culture as well and draining Indian democracy of its vitals.

The political leadership and the political parties are prisoners of basic process of powers. Our freedom struggle was also a struggle for power and that could be won only through the values of service, sacrifice and sufferings which became ingrained in the national movement and political culture. In the present day, Indian democracy, the rules of the 'game power', encourage communalism, casteism, divisiveness, tolerates, and even sanctions use of money power and muscle power, to garner votes for a barely winning majority. This majority of votes is nothing more than a

plurality of votes far below the 51% level, but it ensures victory all the same.

If the minimum criterion for victory in an election is fifty per cent of the votes cast, a major attitudinal change would follow and the very logic would change. In place of dividing, victory shall become a function of uniting people. The electoral law could even provide a minimum of fifty to sixty percent votes as a requirement for success. The pursuers of power would then have to make greater effort to unite the society through consensus, because the adherence of a majority cannot be won through force or coercion. All those seeking political power would realise that they had a lot to gain by unity and transcending caste and communal divisions and in the process subserve true democracy. The minorities and social groups would have to be won over by persuasion and appreciation of their genuine needs and aspirations and not by mere populism and make shift political alliances.

Democracy means rule by people, but elite groups in politics, economy and society have always manipulated the common man to perpetuate their dominance. The twentieth century has witnessed the rise of the consciousness of the people. The people have, for the first time, come on the playground of history to play their part. Swami Vivekanand had said that the age of *Shudras* i.e. of common man was coming and now it has come. Democracy will need to give, to the people, its institution and basic process of power has a more direct and decisive role to play than hitherto.

The basic process of power will have to change and accommodate the people and to give them the role and an instrument so as to create conditions that the best among them are promoted. Man and society have both evil and noble aspects. Politics today utilised the narrowness and selfishness in man while saints try to arouse the noble and in him. The struggle is on.

If democracy has to evolve to a higher plan, the negative tendencies will have to be contested and curbed. It cannot be done by counter-violence or state violence. Violence is growing in our society. In this process people have no role; they are only voters who can cast vote to elect a person or a party. Their is often a Hobson's choice after which they get further alienated from all parties and leadership. They do not have an instrument to

fight its designs. Their only instrument of influence is the vote which is manipulated by the appeal to his baser instincts through casteism, communalism, groupism, money and muscle power. Democracy has become hostage of this system and change in people in power hardly ever improves or alters the situation. Gandhiji had said change of one individual does not change the system. Jayaprakash Narayan had said, 'change of government does not change society'. If the true, sublime character of democracy is to be restored, the need is to change both the system and the society to make its institution conducive to the emergence of the moral man.

How to fight this degeneration is enveloping the polity? The most powerful instrument through which these changes can be heralded is the instrument of vote. But, we have found, that people's right to cast a positive vote, in favour of one or the other as it exists today is conditioned by several factors. But consider what happens if a voter is given the right to reject any one candidate seeking election whose character and conduct he disapproves. This right can also be manipulated to the advantage of some other power-seeker in the same manner as a positive vote. It shall be of little use in changing the system. Gandhiji's dream of electoral process, as the basic process of power, being a substitute for the gun armed revolution and mass civil disobedience shall never be realised.

It is my submission that the new dimension of the content of the democratic process has to be to people's Right to Reject all on the ballot paper itself. This Right to Reject all on the ballot paper is beyond manipulation and can neither be sold, purchased or coerced. It is a moral vote. It is a Vote for change of system and society. It is a non-violent challenge to all political leaders and parties to change themselves. Either they will have to change or perish politically. Man would then finally come into his own and would obtain the instrument of historical change.

The Right to Reject is his inherent right. He can exercise it even if it is not legally given to him. Until now, he has exercised it in anger, anguish, through violent demonstrations and boycotts and even through resort to gun and insurgency. If it is legally given and accepted as a valid expression of choice, it will give man

a channel to express himself without resort to gun and violence or fear of reprisal. Gandhiji's ultimate sanction was the moral and honest common man and whom he could enthuse to fight the battle of *Swarajya*. That is why he supported universal adult franchise, for all—the illiterate and the poor, who, according to Gandhiji were the repositories of values inspite of their destitution. Now when the people have entered a new phase in history, with rising consciousness and the age of common man is here, as Swami Vivekanand envisaged, let us do our historical duty and give to the people the right to reject the system in a non-violent manner so that a new system is ushered in through his active involvement. Let the ballot paper become the common man's command for the change to a higher, moral order of the society.

The Right to Reject will open up new vistas of debate and discussion in a democratic manner. This will set parameters for economic, social and political developments which are now set in the closed chambers of the ruling elite in administration, planning and even populist debates in legislatures or political parties. This Right to Reject is required not only for the poor but the middle classes and even the rich who are facing the challenge of change in the era of science and technology, where vistas change every five years, or even earlier. That pace of change is going to be even quicker in the Twenty-first century, and this cannot be left to be imposed by an elite. The people have to become agents of change themselves. If this change is to save from dissolving in confusion and chaos, they have to have the consciousness to uplift it above the mundane and the gross. That wisdom has to be generated by people themselves through their own experience.

After the introduction of Rejection Vote in the political process, which sets the standards of values for the society, the debates will revert to the basic human issues and morality, and towards spiritual and ethical orientation of economics and politics. This is why Gandhiji modified an essential postulate of Marx. Marx had said the ultimate goal was: 'From each according to his capacity and to each according to his need.' Gandhiji changed it from 'need' to 'essential need'. The character of the society can be changed only through active and conscious effort of the people through a moral revolution. This will eventually create a society free from moral dilemmas and identity conflicts, free from violence

and informed by temperance and ethics. Mere economic development without a moral orientation will create a degenerated society. It is interesting to find that the idea of Rejection Vote has been considered on some counter including both in the United States of America. Rejection Vote has been introduced in a column on the ballot which says: 'NONE OF THE ABOVE (NOTA)' in the Republican *primaries* in the State of Nevada in the USA. in the article published in the *New York Times* (on 23 October, 1990) of Micah L. Sifry, Assistant Editor of the prestigious magazine *Nation* writes:

Ultimately, None of the Above (NOTA) could be far more than a much needed outlet for voter frustration. Conceivable, it could be the hammer to smash inter-connected problems of negative campaigns, entrenched incumbents, vote-buying and voter alienations.

The best place to give to democracy a new dimension, is India with its long heritage, history and culture. True democracy in a competitive system must include the need to get more than half the votes polled, otherwise it is not a representative democracy. The second and primary essential is to provide for the Right to Reject. It is a natural next stage in the of evolution of democracy. These two provisions will give democracy its new dimension which will open up prospects of human evolution and maturing of mind of the people through their own experience at all stages. If these changes in the two principles are introduced in our democracy, it will generate within 5 to 10 years moral forces against violence and other evils of the system. Before insurgency in different states assumes unmanageable limits this moral vote should be introduced in the basic process of power. It shall be a system-substitute for bloody revolution and mass civil disobedience.

ELECTIONS AND ELECTORAL REFORMS

B. Rachalah

In a democratic polity, it is the 'will of the people' which has paramount importance. The right of governance of a democratic country is squarely vested in the totality of its citizens. Real sovereignty rests on their shoulders. Therefore their 'will' is supreme.

The only process by which the will of the people can be ascertained or assessed is the electoral process. This being so, elections have an extremely important role in a democratic political system. The people can express their options and predilections regarding policies and ideologies only through a genuine process of election. Naturally, it is a matter of great importance in a democracy that the electoral process is maintained as an effective and fool-proof system to ascertain the genuine views and feelings of the people.

The Existing System

The electoral system which we have adopted in India follows the British model. In this system, a large number of candidates contest from a constituency; and the candidate who garners

the highest number of votes from among them is declared elected.

The candidate who is declared to have been successful under this system may not actually be a person who has gained the confidence of a majority of the voters. If one lakh valid votes have been polled and they are distributed among five candidates in the following manner, the question whether the successful candidate genuinely represents the majority view of the voters is quite doubtful:

Candidate	Votes polled
A	20,000
B	19,000
C	23,000
D	22,000
E	16,000
Total	1,00,000

Here, Candidate C would be declared elected under the system which we are following, even though he has gained the acceptance of only 23% of the electorate. It is quite paradoxical to declare that a person who has gained the confidence of only 23% of the citizens represents the 'will' of the people.

A Second Contest

A theoretically attractive system of election (which would really bring out the 'will' of the people) is one, in which the two candidates who have obtained the highest number of votes are required to contest between themselves once again. All the other candidates would be eliminated. In the illustration given above, candidates C and D (who have received 23,000 and 22,000 votes respectively) will be asked to contest again. The other candidates A, B and E will stand automatically eliminated.

The practical difficulty in such a system is that it is extremely expensive. Two elections would have to be conducted instead of one. All the electoral expenses would be doubled. It is doubtful whether a poor country like ours can afford the luxury of

such an electoral process. However, there is no doubt that such a system will ensure that the 'will' of the people is truly represented in the Legislature.

Proportional Representation

Another major defect of the existing electoral system in India is that it permits substantial distortion of the popular strength of political parties in their legislative representation. A political party which gets about 42% of the votes polled may get 70% or 80% of the seats in the Legislature. Another party which gets 25% of the votes polled may have to be satisfied with only 5% to 7% of the legislative seats or sometimes even less. In the 1977 parliamentary election, the congress party which had polled more than 30% of the total valid votes in several Lok Sabha seats of North India could not actually gain even a single seat. In the 1984, parliamentary election, the Bharatiya Janata Party suffered a similar fate. Even though they could secure the second place in a number of constituencies, they actually became successful only in 2 Lok Sabha constituencies out of 542. In the last Assembly elections in Tamil Nadu, the Dravida Munnetra Kazhagam, which procured as high as 30%—40% of votes polled in a very large number of constituencies, could really win only one seat out of 234. There is no doubt that these are extreme distortions of the popular will.

A possible solution for this problem can be found in the system of 'proportional representation'. In such a system, each political party will get the same percentage of seats in the Legislature as the percentage of popular support it has obtained from the voters. Instead of setting up individual candidates from specific constituencies, the parties will contest on the basis of 'lists' of candidates for the whole country. On the basis of the total percentage of votes procured by each party, an appropriate number of candidates from the top of its 'list' will be declared elected. This system will ensure that every political party gets its due share of strength in the Legislature as it deserves on the basis of popular support. The defect of this system is that the whole electoral process becomes too impersonal and no candidate will 'nurse' or 'cultivate' a constituency properly with good deeds and tangible local achievements

The process of electoral representation in the Federal Republic of Germany is a combination of the Indian (or British) system and the genuine proportional representation. In Germany, half the seats of the Bundestag (Parliament) are filled by the individual 'constituency-candidate' system and the other half of the parliamentary seats are filled on the basis of relative popular support of political parties from lists they have submitted. This is a system which perhaps India can also try to copy.

Reduction in the role of Money Power

In spite of the high ideals which Mahatma Gandhi had upheld the role played by money power in our elections remains a shameful fact. Each candidate spends a vast amount of money in his election campaign. It is almost as though votes are being 'purchased' with money. Even a good candidate with excellent credentials cannot win an election if he does not have access to enormous financial resources. The increasing role played by money power has become the real of Indian democracy.

One solution which has been repeatedly proposed to tackle this problem is that the State may finance all the candidates—or at least all the serious candidates—in every election. This will ensure that the advantage, or disadvantage of money power is evenly and equally distributed among all the candidates. However, it is doubtful whether the Indian nation with all its acute financial difficulties can undertake such a heavy responsibility.

Criminalisation of Politics

In many of the Indian States, there is increasing instance of the use of muscle power to distort the electoral verdict. Violent attacks to capture polling stations (booth capturing), scaring away of genuine voters, forcible stamping of numerous ballot papers, snatching of ballot-boxes, etc. have become common. In such a situation, the process of election becomes a mockery; and the 'will' of the people becomes the casualty. There is no soft and easy solution for this kind of criminalisation of politics. We can only try to cultivate genuine democracy among our own parties and politicians by a gradual process of inculcation of democratic values.

A code of conduct for politicians and political parties has been evolved on the basis of discussion and mutual consent. But this code does not have any statutory backing; and therefore lacks 'teeth'. It is to be examined whether we can develop a statutory code of conduct and make it enforceable through courts of law.

Non-serious Candidates

In every election, we find that a number of insignificant individuals come forward to file their nominations. They have no intention to contest the election seriously. All that they want is to see their names printed on a large number of ballot papers. They derive satisfaction from the publicity which they consequently receive. It may, however, be seen that the ballot papers become too unwieldy in size and the authorities-in-charge of election are burdened with unnecessary additional work as a consequence of such irresponsible behaviour. A substantial increase in the security amount which each candidate has to deposit may be a practical solution for this problem. The existing rates of security deposit were fixed, several decades back. Because of the continuous fall in money value, these amounts have become negligible now.

Age-limit for Candidates

In India, it has now become a common belief, that, 'once a politician, always a politician'. There is no age of retirement from politics. The elders in the field can perhaps make way for able and enthusiastic youngsters. It is to be earnestly, considered whether a statutory upper age-limit for candidates may be prescribed in the Representation of People Act.

Right of Recall

There have been some suggestions that the citizens who have voted for a candidate should have a 'right of recall' to withdraw him from the Legislature if they are disillusioned with his performance. But in a huge country like India, which has large parliamentary constituencies, this may not be practicable. However, it can be examined whether the duration of legislative term can be reduced to 3 years (from the present term of 5 years) so

that the voters can more frequently express their opinion about the candidates and their performance of public duties.

Quality of Public Life

Compared to countries like U.K., U.S.A., Switzerland, etc., India is a nascent democracy. It should be our endeavour to see that the quality of public life in India is improved substantially. In the days of the freedom struggle, we had great leaders like Tilak, Gokhale, Gandhiji, Nehru, Patel, Rajaji and Rajendra Prasad who conformed to the highest ideals of human life. But in the last four and a half decades since Independence, public life in India has fallen quite low. Any process of electoral reform in our country should be designed so as to reaffirm our faith in the lofty ideals of Mahatma Gandhi.

EVOLUTION OF DEMOCRATIC FUNCTIONING IN INDIA

M. Channa Reddy

India has had the unique distinction of emerging not merely as the world's largest but as the most stable democracy. India had given full adult franchise to its people since the dawn of Independence. For, the leadership of the freedom struggle had trusted the robust common sense of the people, although they were mostly illiterate and lacked in formal education. Women, who did not enjoy voting rights till as late as 1921 in some of the so-called advanced democracies of the West, were also given full adult franchise in India since Independence.

There are elected and fully representational Assemblies in all the 25 States of the country. Importantly, in the rural areas, where there are elected village, block and district councils under the *Panchayati Raj* set-up, what is noteworthy is not merely the size of the electorate or the percentage of voting—the yardsticks which are fashionably used—but the faith with which people take to the electoral processes there.

I had the proud privilege of serving the first Provisional Parliament, when free India's Constitution came into force in 1950. In fact, within a week of my entering the portals of Parliament, I

was chosen by Pandit Jawaharlal Nehru to be a Whip of the Congress Parliamentary Party (CPP). And I had the opportunity and the good fortune of working under the leadership, that had won freedom for India, Sardar Patel, Maulana Azad, Rafi Ahmad Kidwai and their likes, besides Panditji, himself.

The parliamentary debates, too, were of a high order, with stalwarts like Feroze Gandhi and Shyama Prasad Mukherjee taking to the floor. It also goes to the credit of India that the freedom of the Press Bill was introduced and passed in the very early years of Independence and it was piloted by none other than by a ruling Congress MP, the late Feroze Gandhi.

All the elections since 1952 have been creating, a new milestone in the growth and evolution of the democratic functioning in the country. If the strength of democracy is judged not merely by how elections are conducted but how smooth and orderly could be the change of Governments, both in the States and at the Centre, then the transition of power from one Government to the other in a peaceful and orderly fashion has indeed been the hallmark of India democracy.

Even with regard to Centre-State relations, the Constitution clearly demarcates the spheres of activity of the both the Union and the State Governments. As Chief Minister twice of Andhra Pradesh, and each time with a different and an Opposition party forming the Government at the Centre, personally, I have seen the functioning of Centre-States relations.

Frictions there can be and indeed these are bound to be there; but, that in itself, is a sign of a healthy democratic functioning. But, what is more important is the capacity to resolve them, amicably and within the ambit of national unity. That, the Indian democracy has achieved, even as democracies showed signs of faltering and even falling by the wayside in many countries.

Even some of the tensions that exist in the Indian society are sometimes blown out of proportion by the intelligentsia and the critics. In fact, such tensions are the direct result of the earlier suppression of culture and the way of life of the people. Now, these groups seek to fiercely assert themselves and their culture. But, then, this is only a passing phase. One need not be unduly worried over the developments.

Besides, there is a greater need now than ever before to persevere with patience with what we consider to be true and good and abiding, in the larger national interests, and not give them up in the face of some temporary setback.

What has been attempted in India was not a mere transplantation of the Westminster model but its creative application in vastly different circumstances which are peculiar to us because of the different social and historical background—and that too, on the Gandhian lines. For, in India, the Western liberalism merged with the Gandhian vision and value-system that insists on the national social development along with the renaissance of the human spirit.

Despite the prophecies of doom of the critics, democracy in India has come to stay and it cannot be shaken, come what may. Whichever party rules at the Centre or in the States, democratic system itself cannot be shaken. All will have to come to terms with this reality, which is irreversible.

ECOLOGY AND ENVIRONMENT—ROLE OF PARLIAMENT, EXECUTIVE AND THE PEOPLE

Bhishma Narain Singh

The natural environment with its numerous living and non-living resources is mankind's most precious heritage. The basic goal of environmental conservation is the management of human use of these natural resources, so that they may yield the greatest sustainable benefits to the present generation while maintaining their potential to meet the needs and aspirations of future generations.

In the past, India had a great tradition of environmental conservation, as is evident from the references to this subject found in its ancient scriptures. Speaking at the function to launch the World Conservation Strategy on 6 March, 1980, the then Prime Minister, Smt. Indira Gandhi referred to this heritage:

"The interest in conservation is not a sentimental one, but the re-discovery of a truth well known to our ancient sages. The Indian tradition teaches us that all forms of life — human, animal and plant—are so closely interlinked that disturbance in one gives rise to imbalance in the others".

Like other nations, India too bears the scars of damage done to its natural environment resulting in a wide array of environmental problems affecting the well-being of its citizens. While for developed countries, environmental problems are largely the by-products of affluence marked by resource wasteful life-styles, the stress on India's environmental resources come mainly from the pressures for satisfying the basic human needs of a large and growing population as well as livestock population.

Environmental problems in a developing country like India can be classified into two broad categories: (a) Those arising from conditions of poverty and under-development which has to do with the impact on the health and strength of our natural resources (land, soil, water, forests, wildlife, etc.) as a result of inadequate availability, for a large section of our population of the means to fulfil the basic human needs (food, fuel, shelter, employment, etc;) and (b) those arising as negative effects of the very process of development which has to do with the unintended side-effects of efforts to achieve rapid growth and development. In this latter category would fall the distortions imposed on natural resources from not only poorly planned development projects and programmes, as well as from lack of attention to long-term interests by commercial and vested interests, but also the inherent and somewhat irreconcilable contradiction between development and ecological preservation.

As our development progresses, perhaps we shall also have environmental problems akin to those in the developed countries. But we can afford to learn from their experience. Through foresight and imaginative planning, many potential dangers can be avoided or at least minimised. In fact, when we talk of ecology and environment, it is not enough for official agencies to become environment conscious. By its very definition, environment is pervasive. Can there be environmental planning without the involvement of the entire population at all levels? There should be a conscious attempt by all concerned—the people, its representatives in Legislatures, the Executive and others — to protect our environment for posterity.

This brings us to the need for awareness of environment preservation, particularly among the common people. It is note-

worthy that despite poverty and illiteracy, people have been eco-conscious and this has contributed to a great extent to the preservation of our rich *flora* and *fauna* down the ages. To cite an example, the Bishno is in the villages of Rajasthan do not permit hunting or felling of trees in their area. 'Bishnoi' literally means 'twenty-nine' and there are twenty-nine rules of environmental protection to be religiously followed by the community. Bishnoi villages stand apart as oases in the vast expanse of the desert in Rajasthan. As far back as 1730, in these villages near Jodhpur, hundreds of women and children had given their lives to save trees. They were hacked to death as they hugged the trees to save them from the axemen. This perhaps was the origin of the famous 'Chipko' movement, one of the most successful examples of people-oriented environmental protection.

As discussed earlier, over the centuries, Indians have worshipped nature. These sentiments of profound love and respect for nature find expression in our scriptures. Sacred rituals of watering the plants and feeding the birds and animals convey the deep understanding of the pyramid of life—inter-dependence of all forms of life. The emphasis has been on an austere life and restrained use of resources. Gandhiji used to say that nature had enough to satisfy the needs of all, but the greed of none.

Even in modern times, India can count itself as among the few countries of the world that have made specific reference in their Constitution to the need for promoting ecological security. In the Indian Constitution certain duties for the State and the citizen have been specifically enshrined, evidencing the concern for environmental awareness in the Legislature and the people. In fact, since Independence, Government has taken a number of steps to protect the environment, including legislation for protection of wild life, water and environment from pollution, establishment of administrative structures for pollution control, encouraging pollution control measures and taking up afforestation activity.

Recently, the National Conservation Strategy and Policy Statement on Environment and Development was released which seeks to "weave environmental considerations into the fabric of our national life and of our development process". Earlier this

year, the Government announced its much-awaited national policy for abatement of pollution which envisages compulsory annual environmental audit for industrial concerns and a host of fiscal incentives for adopting cleaner technologies to control pollution. In another significant development, the Union Environment Ministry is going ahead with the setting up of a National Environmental Tribunal to deal with the quantum of damages claimed by the people. Further, the Environment Ministry has proposed the setting up of a National Environment Commission to study the legal, social and other aspects of various laws relating to environment and suggest modifications in those laws. India is the first developing country to label environment friendly products for marketing.

However, in a country as vast and diverse as India, it will not be possible to achieve environmental protection fully through administrative measures or arrangements. It should be noted that environmental impact is more due to the unwitting action of millions of our citizens who have to live amidst poverty and deprivation. Such action may include deforestation arising from the search for fuel, pollution of water-courses by the uncontrolled discharge of human wastes, the problems of erosion and desertification from the cultivation of marginal lands or the creation of congestion and insanitary conditions in human settlements. Much of this adverse impact can be mitigated or even avoided by creation of what is widely referred to as 'environmental awareness' i.e. an awareness of the implications for the individual, for the community and for the nation, from destruction or damage to environmental resources. However, it is obvious that together with the propagation of environmental awareness, the availability of alternate sources and means, for the satisfaction of basic human needs are imperative. Such human needs can be satisfied only by rapid economic growth coupled with the diffusion of benefits of such growth among the poorer sections of the community. In order to ensure that this very process of accelerated economic development does not create environmental problems of its own, suitable legislative and administrative measures need to be devised.

Role of Parliament

The Parliament which occupies the centre-stage in our po-

litical firmament and which has come to be recognized as the symbol of the nation's hopes and aspirations as also of the power, majesty and sovereignty of the people, has a key role to play in protecting our environment and ecology. Our Parliament is much more than a legislative body. It is verily a multi-functional institution. Members of Parliament who represent their people and voice their difficulties, problems and grievances need to focus increasing attention on a vital subject like environment which concerns each and every individual and the society at large.

One form of unplanned exploitation that seriously distorts our eco-system is mining. There is no legal compulsion at present on the mining authority to rehabilitate the land after the extraction of ores whereas in some countries, mining areas are transformed into picnic spots with lakes and gardens; environmental hazards are thus prevented. A similar attitude has to be adopted in regard to our river valley projects, dams and hydro-power projects. Further expansion and development of industries brings with it environmental hazards, such as water and air pollution that adversely affect ecological balance. Parliament has a role in enactment of suitable laws to bring down environmental hazards and maintain ecological balance.

In India, Government has undertaken many industrial activities, including those pertaining to metallurgy and chemicals. Extraction of gas, oil and all other minerals like coal, iron, etc. are the exclusive domain of the Government. Unless a strong voice is raised by parliamentarians and people at large, environmental aspects in these activities may not be adequately taken care of. Parliament can further evaluate the present measures taken to preserve ecological balance and take necessary legislative, organisational and administrative steps to meet environmental challenges.

There are certain lacunae on the Forest Act enacted by different States which need to be plugged. Here, members of Parliament and State Legislatures have an important role. Since the subject of 'Forest' is in the Concurrent List, Parliament can enact laws that are common and applicable to all States wherever a uniform policy throughout the country is desirable.

Role of the Executive

The Executive has an important role in implementing Governmental policies in promoting accelerated economic development without the destruction of natural resources. The Executive should try to focus on integration of environmental factors into the process of social and economic development. The Executive has also to identify the weaknesses in the legislation as well as those in other supporting administrative systems and undertake/propose suitable measures to fill the lacunae. There should be better co-ordination between various Government Departments whose actions have a bearing on environmental resources like land, soil, water, forests, wildlife, etc. Projects should be taken up after careful scrutiny of their environmental aspects and after ensuring that adverse impact is prevented, mitigated or eliminated, right from the inception stage. The location of the project should be away from ecologically sensitive areas, reserve forests and boundaries of national parks or sanctuaries. It is necessary to anticipate, minimise or prevent environmental damage. Unless there is a partnership with the public, none of the objectives to safeguard our environment will be fulfilled. More the rapport between the people and the Government, the greater will be the chances of conservation.

People and Environment

This takes us to the role of the 'people's power' as an effective agent of change in safeguarding our environment. History repeats with instances of the triumph of people's will and action in preventing injury to basic life support systems. Public opinion supported by mass media can serve as an early warning system. This calls for an environmental awareness among our masses. Awareness has to be reinforced with knowledge and training to equip people to discharge their duties in an environmentally beneficial manner. Experts say that the remedies to many of the ecological maladies are simple and often low-cost. They are, however, knowledge-intensive and demand self-discipline, team work and respect for the needs of future generations.

For instance, if we take the question of urban and rural hygiene problems, they can be solved if each citizen decides not to

throw garbage on the streets and not to use streets or open grounds as public conveniences. Singapore has shown how individuals respect the welfare of society as a whole. Nature can never be managed well unless the people closest to it are involved in its management and a healthy relationship is established between nature, society and culture. Given proper awareness and adequate action, any movement for environmental protection can succeed. The 'Chipko' movement and the Kerala Shashtra shahitya Parishad campaign against the Silent Valley project are examples of public awareness and nation.

The interest of forest dwellers surviving on forests has not been given adequate attention with the result that the forest dwellers generally have not much interest to preserve the forest, not to speak of creating this source of renewable energy. Only through direct involvement of the forest dwellers in forest preservation and regeneration programmes that the rich natural resources can be saved and ecological balance retained. Non-Governmental Organizations (NGOs) can play a vital role in creating this mass awareness.

Maintaining of ecological balance and preventing environmental degradation is indeed a stupendous task. It requires governmental efforts, community participation, mass education, awareness and above all-an all consuming passion to protect nature and man. A comprehensive package of steps at the grassroots level is needed to combat disturbing environmental trends. These steps include the formation of a chain of people's action groups all over the country to act as voluntary guardians of environment and educate people about the far-reaching consequences of environmental over-exploitation. Apart from voluntary organizations, individuals too can successfully mobilise public opinion on vital issues concerning environmental degradation.

To sum up, in the context of the relationship between man and nature, we must bear in mind the fact that the human impact on nature is eventually related to what humans do to each other. The root of the problem lies in the tendency of violence in man reflected in many ways. As Mahatma Gandhi said: "We cannot have an ecological movement designed to prevent violence against nature, unless the principles of non-violence becomes cen-

tral to the ethos of human culture". How can man learn to live in perfect harmony with his kind, and with his environment, which makes life both possible and worth living ? This is the principal challenge facing the political system, scientific and educational establishments, the media, Parliament, the Executive and the people. Each will have to address these issues in its own way and do its duty if the Mother Earth is to be saved.

PARLIAMENT AS A VEHICLE OF SOCIAL CHANGE

Bhajan Lal

The relationship between politics and society are deep indeed. In fact, politics is one of the ways by which society expresses itself. Political Institutions and structures are best understood in their social setting. Political institutions reflect the needs and aspirations of a given society and these are geared to perform specific social ends. Only in the context of this broad perspective, we can understand the relation between Parliament—the highest legal political institution—and its end, *i.e.* to be an instrument for defining, underlining and effecting social change.

Change is the most prominent characteristic attribute of a society and change is directly related to progress. The relationship between change and progress is well established though one may also talk of the nature and quality of change to be determinative and expressive of progress. Mere quantitative and details of change do not necessarily indicate progress. The history of our civilization shows that mankind has passed through several stages to reach its present level. As the noted Anthropologist, Louis Morgan has described in his book *The Ancient Society*, civilization was pre-

ceded by stages of barbarism and savagery. Change underlines every society but the nature and pace of change is not equal. But whereas social change has not been effected or come about in uniform manner, the idea of progress, the idea of development and the question of proper use of man's rational faculty so as to develop science and technology are accepted as universal values. They are geared to effect fundamental changes in our material life and through that also a change in our attitude to life.

The question of conditions of life and attitude to life is very important because herein lies the key to understand a community's place and position in the world. Both conditions of life and attitude to life are related to each other and are susceptible to change. In fact, one of the greatest achievements that mankind has made through history and which is increasingly realized is that by changing one's attitude to life, one can actually change his conditions of life. However, for this endeavor to succeed, changes in the attitude to life are to be deliberately fostered in terms of progress and development. Political institutions and structures not only reflect the society, they also affect and change the society. Thus viewed, Parliament has a definite and important role to play in society. Parliament makes laws which are administered by other branches of society. By laws, policies of the Government are laid down for implementation. Parliament thus has to keep the laws in keeping with the times.

It is now universally accepted that legal-political institutions have a major role to play in social change. The impact of such institutions on different aspects and sectors of social life is well established. Political theories on the question of relationship between politics and society are many but so far as the question of the importance of an inter-active and mutually dependent relationship between the two are concerned, there is hardly any doubt. In the 19th century, law making bodies like Parliament were merely conceived as an institution to frame laws in very limited areas. Under the influence of the prevailing theoretical formulation of individualism, the role of the state was underplayed. It was believed that state had neither the competence nor was there any need for it to penetrate and affect the society. State was considered as a 'necessary evil' to be sustained only for specific limited ends. Whether it was the formulation of John Locke in the late 18th century or the extreme stand taken by Herbert Spencer in the mid

19th century, the message was clear; state must keep itself off from the society. This negative perception of the role of the state had to be abandoned under the influence of the socialist-ideology. Individualism, when confronted with increasing pressure for social welfare, was found wanting and T.H.Green, and still later on Laski and others, exposed the hollowness of the distinction between the state and society.

The position of the idealist school of philosophy, identified with Hegel, emphasised that there is no distinction between society and the state and made the state the highest embodiment of social morality. This sort of conceptualization of the role of the state in effect meant the total subservience of the society on the state and therefore this was anathema to democratic minded people and hence never acceptable. On the other hand, collectivists and socialists emphasised the dynamic nature of the relationship between society and the state and proposed that state can be an instrument for the betterment of social conditions. This was definitely influenced by Marxism but at the same time contained the democratic element of the liberal movement. The synthesis was reached in the 20th century when diverse streams of thought converged to show that the state, far from being a negative phenomenon, must be understood in the context of the positive functions that it can perform. In the field of theory, Laski, Mac-Iver and Barker contributed a lot to the building of this line of thinking. In practical life, under the influence of the integrative forces of science and technology and also due to the effect of the Great Depression, the role of the state was expanded to hitherto unthinkable dimensions. The New Deal policy of President Roosevelt of the United States and the Democratic Socialist Movement in various parts of the world brought the state in a big way in the social sphere. Thus, welfarism, greatest good of the greatest number of people, polity must penetrate traditional social structure so as to bring in appropriate social change in conformity with the requirement of modernization.

The above formulation has been the theoretical postulate behind the Constitution of India which was adopted in November 1949 and which came into force on 26 January, 1950. The Constitution provides for a balance between political-legal rights (Fundamental Rights) and non-political economic rights (implied)

under the Chapter on Directive Principles of State Policy. The Constitution has given unprecedented power and authority to the Parliament which has been erected on the foundations of political democracy.

The basic idea which has sustained our developmental strategy has been that Parliament, by making appropriate legislations in all spheres of life, would give urgency and momentum to directed changes in the social spheres. Thus all the legislations that Independent India framed, beginning with the Zamindari Abolition Act, various social security measures, expansion of the provisions of Schedule IX of the Constitution, various measures to protect the rights of children and women, and the increasing importance that Parliament attached to Directive Principles showed that Parliament is not only competent but also is a necessary input into effecting social change. The economic policies and programmes that Independent India adopted, including the very ambitious Community Development Programme and the successive Five Year Plans that our country adopted had contained seeds for social transformation.

The direct involvement of the law-making body in effecting social change could be seen in the formulation of the Hindu Marriage Act. It could also be seen in the context of India adopting secularism as its ideology. The fostering of the ideas and the ideals of national integration also has a social message. The question is how to effect attitudinal changes and bring people into the main stream of national life. Participatory democracy requires not only a democratic structure but is also conditional upon the participation of forward looking citizens. This can only be helped and given momentum by appropriate decisions and legislations formulated by a law-making body like Parliament and implemented in the social sphere.

Parliament thus plays a direct and conditioning role in bringing about social change and effecting social transformation. It is not only through legislation alone that parliament expresses its role in social change. The other aspects of Parliament's power and responsibility also have a bearing on social change.

However, a note of caution is in order. By its very nature, being a political-legal body, Parliament has its limitations. It can

formulate and it can provide the structure of change but the content of change need not necessarily be in conformity with the goals initially set. This is why we see that Parliament by making legislations in the social spheres may contribute to social change but the impact of Parliament on the nature and direction of the changes must be understood in the context of the limitations within which centrally formulated law operates in the society. Moreover, Parliament is the creation of a definite political environment and performs its functions within limitations. There is a limit to what Parliament can actually do in the social sphere. Social change comes about very slowly and the result of social legislations cannot be identified. Society and politics are in an enter-active relationship and it is not clear to what extent one may identify the one or the other as to be an independent variable.

Developing countries are struggling hard to modernize. One necessary condition of moderanization and development is that, traditional social structure and institutions must be brought in conformity with the demands of a modernistic polity. It is in this context that we see the role of the Parliament as an instrument of social change. Though Parliament's contribution to actual social transformation may be meagre but its role is definitely considerable. This has been true in the case of developed countries also. For example is the role of Parliament in the United Kingdom in bringing progressive legislations, including the legislation to give women voting rights. The role of Parliament as an instrument of social change is more direct and more relevant in the case of developing countries, given the traditional rural social structures and subsistence economy prevalling in most parts of the Third World.

CONSTITUTIONAL REFORMS, STABILITY AND CHANGE : AN APPRAISAL

K. Vijaya Bhaskara Reddy

The Constitutions, as given to us by founding fathers, has stood the test of time. It is true that we have made as many as 72 amendments to the Constitution during the course of the last forty-two years. However, some amendments were made with a view to effectively dealing with social and economic problems peculiar to our country. Speaking on the nature of our Constitution, Dr. Ambedkar had observed :

One likes to ask whether there can be anything new in a constitution framed at this hour in the history of the world. More than hundred years have rolled when the first written Constitution was drafted. It has been followed by many other countries reducing their Constitutions to writing. Given these facts, all Constitutions in their main provision must look similar. The only new things, if there be any, in a Constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country.

As for the changes incorporated in the Constitution, special mention may be made of the provisions concerning land reforms as also of the advancement of socially and educationally backward classes of citizens or the Scheduled Castes and Scheduled Tribes. Provision has also been made for giving effect to certain Directive Principles contained in article 39 towards building of a welfare State. Similarly, incorporation of the Tenth Schedule to the Constitution for printing a curb on the politics of defection is yet another important addition.

Despite making amendments such as these, we have not effected any changes to alter the main features of the Constitution. The Sarkaria Commission too, in its report on Centre-State relations, did not recommend any major changes in our constitutional scheme, but emphasised the need to develop proper conventions for a healthy functioning of our parliamentary democracy. This factor needs to be emphasised upon, as it is incumbent on all constitutional functionaries to perform their duties under the Constitution in the true spirit of the constitutional provisions. As Dr. Rajendra Prasad once said :

After all, a Constitution like a machine is a lifeless thing. It acquires life because of the men who control it and operate it.

Therefore, if we fail to live upto the mandate of the Constitution, the Constitution cannot be blamed on that count. In a similar vein, Dr. Ambedkar had said :

I feel that it is workable, it is flexible and it is strong enough to hold the country together both in peace-time and in war-time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution, what we will have to say is that man was vile.

One often hears demands for radical reforms of the Constitution. Demands are often made by regional parties for giving more powers to the States in the name of strengthening the federal structure of the Constitution. Some other have favoured a Presidential form of Government. Some have called for redefining the powers of the judiciary alleging that the judiciary has become

a super-legislature. Possibly these are reactions to given situations emerging at a particular point of time. It would not be correct to attribute any problems which we may have faced or may be facing, to deficiencies in the Constitution. Our Constitution was drafted after taking into consideration, the constitutional experience of several countries of the world. It is as relevant today as it was at its inception. It is a fine blend of the best available elements in other Constitutions. As Dr. Ambedkar very aptly put it, 'if it is a patchwork, it is a beautiful patchwork'.

Representatives democracies will have no meaning without economic and social justice to the common man. This has been a universal experience. Freedom from foreign domination can be looked upon only as an opportunity to bring about economic and social advancement. Freedom is nothing else, but a chance to lead a better life. This liberty to do better and live better is the theme of the Directive Principles of State Policy as enshrined in our Constitution. It would do well to examine the gap between promise and performance, between resolutions and implementation, between hopes raised and results achieved, between distance travelled and the distance that remains to be travelled and between our radicalism in principle and conservatism in practice. The concept of the State being neutral in social matters is a thing of the past. Today, the State is the principal instrument for bringing about a just and social order.

The Indian Constitution is first and foremost a social document. The majority of its provisions seek to further the goals of social revolution by establishing conditions necessary for its achievement. Even though in the legislations enacted so far, we had endeavoured to give effect to various Directive Principles of the Constitution, we have yet to go a long way towards fully implementing these principles. It is hoped that the path of economic liberalism also would, in due course, show results and generate enough resources to enable the Government to take the country to greater heights of progress and in the process, give a new meaning to the Directive Principles. The Chapter on Directive Principles should indeed become a charter of our progress and development, both economic and social.

In a number of areas affecting our lives, there appears to be a growing gap between what the Constitutions proclaims and what is happening in reality. At a time when we need to make greater efforts towards attaining the goal of national integration through secularism and eradication of social evils connected with untouchability, we see that divisive forces and tendencies are taking roots in our country. The virus of communalism and of regionalism seems to corrode our national life. We need to strengthen the struggle for safeguarding the ideal of secularism enshrined in our Constitution. In an effort to separate religion from politics, the Religious Institutions (Prevention of Misuse) Act 1988 was enacted so as to ensure that religious institutions were not utilised for promotion and propagation of political activities or for promoting disharmony between different religious groups. More recently, the Places of Worship (Special Provisions) Act, 1991 was enacted with a view to prohibiting conversion of places of worship and to provide for maintenance of their religious character as it existed on 15 August, 1947. Similarly, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 was also enacted. However, law alone is not enough. All sections of the society need to show the necessary will to overcome the divisive forces in our society.

I would also like to emphasize that there should be a proper balance between rights and duties of the citizens. We have achieved this in a small measure by inserting a chapter on Fundamental Duties in the Constitution. The Fundamental Duties are highly relevant today keeping in view the prevailing atmosphere of violence, terrorism and communalism. The country can march forward only if the citizens learn to attach equal importance to their duties as they do to their rights. The success of our Constitution and democracy would greatly depend on their sense of patriotism and their dedication to the progress of the country.

The Constitution makers have meticulously defined the functions of various organs of the State. The Legislature, Executive and Judiciary have to function within the spheres demarcated under the Constitution. No organ should usurp functions assigned to another. The functioning of our democracy depends upon the strength and independence of each of its organs. Lately, there have been apprehensions that the principle of separation of

powers is not being followed in its true spirit. Respect for this principle is indeed necessary for the smooth functioning of the Constitution and all the organs of the State. The need of the hour is to strengthen democratic process in the country by giving precedence to the spirit of the Constitution.

To conclude, I would say that the democratic process in the country can be strengthened by giving precedence to the spirit of the constitution.

PARLIAMENT AND FOREIGN POLICY

Najma Heptulla

The supremacy of Parliament *vis-a-vis* the Executive is a cardinal characteristic of Parliamentary system. Despite this, the prerogative to initiate policies and implement the same after parliamentary approval vests always with the Executive.

However, the co-equal dimension of the role of the Legislature and the Executive cannot be minimised. The constitutional framework as well as evolving conventions have sought to resolve the problem of interaction between the Legislature and the Executive by providing specific guidelines which ensure co-ordination and co-operation between these two organs. The Executive cannot abdicate its role in formulating foreign policy, implementing the same and remaining accountable to the Legislature. The Legislature also cannot ignore and overlook its responsibility and the right to scrutinize, discuss and assess the policy formulations. So far as the unqualified prerogative of the Executive in matters of foreign policy is concerned, there are some specific limitations placed upon it.

The first of these is parliament's control over the governmental expenditure. Parliament exercises financial control over the conduct of foreign affairs through obligation upon the concerned Ministries to seek its approval for their proposed expendi-

ture. The second is legislative control over the Executive. There are two co-related aspects of this : (i) the Legislature has the right to express its agreement or disagreement with the way the Government orients its policies; and (ii) the legislative control involves detailed examination of Executive actions both before the policy is adopted and also as *expostfacto* supervision of the implemented policies.

There are certain provisions contained in the Constitution of India which speak of the powers of parliament in matters relating to foreign affairs. Parliament has exclusive power to make laws with regard to the aspects of foreign affairs enumerated in the entries 10 to 21 in List I of the Seventh Schedule of the Constitution. These include, *inter alia*, such specific subjects as diplomatic, consular and trade representation, United Nations Organisation, International Conferences, treaties, agreements and conventions, war and peace, citizenship, aliens, extradition, admission into, and emigration and expulsion from India, passports and visas, etc.

Besides this list, the residuary power of legislation is also vested with the Union. Under article 253 of the Constitution: "Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body."

Article 51 also gives a directive to the State to promote international peace and security, maintaining just and honourable relations between nations, fostering respect for international law and treaty obligations in the dealings of organised peoples with one another and encouraging settlement of international disputes by arbitration.

India's first Prime Minister, Pandit Jawaharlal is to be credited with both giving sustenance to the norms of parliamentary form of Government and enunciating the broad format of Foreign policy. In fact, he was the chief artificer of our foreign policy. In this unique role, he ensured that the conduct of foreign policy be exposed to parliamentary supervision and approval periodically. In November, 1947, when the Constituent Assembly (legislative) was considering the United Nations (Security Council) Bill, Jawahar-

lal Nehru declared:

"Every matter will be brought before the Assembly at the earliest possible moment ...I can hardly conceive of such important matters being dealt with by the Government without frequent and constant reference to the Assembly and I hope that the convention may grow up that at least once in every Session the Assembly will discuss foreign affairs in all their aspects.

On matters pertaining to foreign policy, Nehru made it a point to consult Parliament as frequently as was possible for him. His successors have also endeavoured to strengthen the practice established by him. As is evident, India's foreign policy constantly remains the subject matter of discussion in Parliament.

Parliamentary control over the conduct of foreign relations is also exercised through legislation but only in a limited way. Most of the legislation introduced in Parliament is in the form of Government Bills. If one scrutinizes the large number of Bills passed by Parliament, one would find that only few of these deal with the conduct of foreign relations and foreign policy. Some notable laws passed by Parliament are the Extradition Act, 1962, Enemy Property Act, 1963, International Monetary Fund and Bank (Amendment) Act, 1969, Merchant Shipping (Amendment) Act, 1970, the Anti-apartheid (United Nations Convention) Act, 1981 and the African Development Bank Act, 1983.

Besides legislation, there are other procedural devices which are frequently taken recourse to by members of parliament to examine and discuss matters relating to foreign policy.

Through the procedure of asking Questions Oral, Written and Short Notice and eliciting answers from the Executive, the vigilant role of Parliament over the former's functions is maintained and reinforced. Sharp and penetrating questions have, on many occasions, brought to light acts of omission and commission which would otherwise have gone unnoticed. This is also true in the case of foreign policy matters. Supplementaries to questions asked on the floor of the House also help the Parliament to examine foreign policy issues more closely and minutely. The Ques-

tion Hour not only brings to focus the lapses and lacunae of the Government on foreign policy issues but also makes it aware of certain missing links in policy formulation. Thus, the inputs obtained during the Question Hour influence the Government of the day to shape its foreign policy.

There is a provision in the Rules of Procedure and Conduct of Business of both Houses of Parliament whereby a member can raise a Half-an-hour Discussion on a matter of sufficient public importance which has been the subject of a recent question—oral or written—and the answer to which needs elucidation on a matter of fact. Some of the subjects discussed under this provision include the Nuclear Non-Proliferation Treaty, supply of U.S. arms to Pakistan, purchase of Islands in the Indian Ocean by the British Government, the Vietnam issue, negotiations with China, closure of Indian business in Kenya, resumption of trade between India and Pakistan, erection of barbed wire fencing along the Indo-Bangladesh border, etc.

Apart from half-an-hour Discussions, on the statements made by the External Affairs Minister or the Prime Minister of foreign policy matters provide ample opportunities to members to exercise control over foreign policy issues. Unlike Lok Sabha, Members in the Rajya Sabha can seek clarifications immediately after a statement is made on the floor of the House. Later, when a full-fledged discussion takes place on the statement, Members are entitled to ask questions. This helps members of the Council of States to oversee the activities of the External Affairs Ministry and also to influence the making of foreign policy.

Through the procedure of Calling Attention, Members call the attention of the Minister concerned on any matter of urgent public importance and the Minister makes a statement or asks for time to do so on a later date. This has helped Members of Parliament to focus attention on important matters that have a bearing on India's external affairs. The recent Indo-U.S. Joint Naval Exercises in the Indian Ocean was a subject of extensive discussion. This issue and its implications on the security of the country was also raised in the Rajya Sabha in the form of a Calling Attention. This exemplifies the interest taken by Parliament on foreign policy perspectives and diplomatic orientation of the Government.

Both the Houses of the our Parliament have co-equal powers of control over foreign policy except with regard to the moving of a no-confidence motion which can be done only in Lok Sabha and the discussion on Demands for Grants which takes place only in the lower House. In both the Houses, foreign policy and the conduct of external relations by the Government are subjected to parliamentary scrutiny.

Another important method by which Parliament can influence the conduct of foreign relations is by adopting resolutions. There are several kinds of resolutions. There is one type of resolution which seeks approval of Parliament to an international treaty, a convention or an agreement to which the Government of India is a Party. Another type of resolution seeks Parliament's approval of a Government Act or policy. This type of resolution may also be adopted to express the Government's reaction to certain events in the international sphere. Then there are resolutions which are brought forward by the Government to take approval of the House to the recommendations contained in the Reports of certain Committees.

On a number of occasions, Parliament has asserted its will in relation to foreign policy by adopting resolution. In March 1983, a resolution covering important aspects of India's foreign policy was adopted by the Lok Sabha. Through this resolution, the House welcomed the declaration adopted by the Seventh Conference of Heads of State of Non-aligned countries which called for an end to the production and stockpiling of nuclear arms as also for more purposive efforts to launch a North-South dialogue, to enlarge South-South co-operation and to usher in a New International Economic Order. Similarly in August, 1985, a resolution was moved in Parliament by the Minister of State for External Affairs, which condemned the policy of apartheid in South Africa.

Discussions on resolutions reveal a wider variety of subjects in the area of foreign affairs than does legislation. Members, while participating in the discussion, question the Government's position on certain issues. Government on its turn, provides the rational for following a particular policy.

As per the rules of procedure, the resolutions are moved on a motion and the House takes a decision on it either in the

affirmative or negative. Therefore every matter is determined in the House by means of a question from the chair on a motion.

But there is a procedural device which helps members to raise a matter without a formal motion. The Short Duration Discussion is one such device which is used by members to raise discussion on a matter of urgent public importance. This has enabled members to raise, among other things, important issues relating to foreign policy. In April, 1992, a Short Duration Discussion was raised on the award of a contract for the purchase of electric locomotives to a Swiss firm, with several members demanding the cancellation of the contract. Later the Prime Minister Shri P.V.Narasimha Rao pointed out that if the contract got cancelled, India's credibility to obtain foreign investment from other West European nations would suffer a great deal. This shows the direct or indirect relation between the discussions in Parliament and its impact on foreign policy.

The first session of Parliament every year begins with an Address by the President in which he reviews the activities and achievements of the Government during the previous year and puts forth policy perspectives for the year ahead. The President Address invariably includes observations on significant aspects of the country's foreign policy. The address by the President is followed by a discussion in both the Houses of Parliament on a Motion of Thanks, allowing a wide ranging examination of Government Policy. Even matters which are not specifically mentioned in the Address are brought into discussion. Sometimes amendments to the Motion of Thanks on the President's Address are also moved and discussion takes place on them. Thus, members have ample opportunity of discussing thread bare the Government's foreign policy in the course of the debate on the President's Address. While doing so, they turn the searchlight on Government's policy and suggest useful measures. No Government can naturally afford to ignore the opinions and suggestions of members thus put forth on the floor of the House.

The scope for examination and discussion in Lok Sabha on foreign policy is more because of the power of the Lower House to vote the Demands for Grants of the Ministry of External Affairs. In the case of the Rajya Sabha, even though it is not empowered to

discuss the Demands for Grants it has started a practice since 1970 to discuss the functioning of different Ministries. In this context, the Council of States has discussed many times the functioning of the Ministry of External Affairs and has thrown light on the lapses and grey areas as well as on achievements and prospects of India's foreign policy. The Government reckons with the observations of the members and takes suitable action.

Apart from the procedures available to both the Lok Sabha and the Rajya Sabha, another level of scrutiny of foreign policy is provided by the meetings of the Consultative Committee attached to the Ministry of External Affairs. Though not a parliamentary Committee, the consultative Committee comprises members drawn from various political parties represented in parliament, more or less in proportion to their strength in the House. While the Committee has no authority as in the case of a Committee of Parliament, it is still effective in as much as members are given more information than is possible for the Minister to give on the floor of the House. Discussions in the Committee are less inhibited by the dictates or rigid party stand and postures. Government's thinking, tentative or otherwise, on certain issues likely to be raised in Parliament is indicated at the meetings of this Committee. Members gain advance knowledge of those issues which helps them make their parliamentary interventions more purposeful. There are some other Committees such as Public Accounts Committee, Estimates Committee, Committee on Government Assurances, etc., which also influence foreign policy. All these Committees are important media for communication between the Executive and the Legislative branches of the party in power.

Over the years, various important aspects relating to India's foreign policy have been discussed in Parliament which have reflected the stand of India on important world issues like the Soviet intervention in Afghanistan, conflicts between Iran and Iraq, the Namibian problem, the South-East Asian Situation and India's relations with various countries. Following the collapse of the Communist block and the disintegration of the Soviet Union, India's foreign policy postures have been very minutely discussed in parliament. In the recent past issues regarding India's policy of non-alignment, Indo-Pak relations, Gulf War, recognition of Israel and the three Baltic States of Estonia, Latvia and Lithuania by

India, Indo-U.S. relations, etc. have been discussed in Parliament. Statements made by the Minister of External Affairs and the Prime Minister in both the Houses on all issues concerning foreign policy have been examined minutely. Besides being the medium for the reiteration of accepted policies by the Government, these statements afford an opportunity to project its policies and to provide answers to the view points raised by members belonging to various parties. The Opposition too has the right to critically examine the policy framework, to evaluate and to suggest alternatives. The influence of the Opposition over the formulation of foreign policy is by no means negligible. Views of the Opposition are taken into consideration by the Government while formulating the foreign policy.

Foreign policy formulation is essentially the function of the Executive. Parliament's Co-relation with foreign policy is determined by its very character as the supreme representative body in the country. As long as the cardinal principle of Executive accountability to Legislature holds good, Parliament will exercise its legislative, constituent and other powers as mentioned in the Constitution, Rules of Procedure and Conduct of Business and as determined by conventions and traditions. With the setting up of Subject-based Standing Committees to examine the on-going activities of Ministries, the role of Parliament on external affairs is bound to increase. This will further reinforce and consolidate the co-relation between parliament and foreign policy.

PARLIAMENT'S BUDGET IN PARLIAMENT

S. Mallikarjunalah

Prior to independence, the Legislative Assembly Department which was directly under the control of the Speaker functioned as the Secretariat of the Central Legislature. After independence, when the new Constitution was adopted, the need for a separate Secretariat for the Parliament was well recognised. Accordingly, Article 98 of the Constitution of India provided for a separate Secretariat for each House of Parliament. With the Constitution coming into force, the former Legislative Assembly Department, which was renamed as Parliament Secretariat, continued to be the Secretariat of the House of the People. The 'House of the People' and its Secretariat were renamed as the 'Lok Sabha' and the 'Lok Sabha Secretariat', respectively, by an announcement made by Speaker Mavalankar in the House on 13 May, 1954.

Clause (I) of Article 98 carries the necessary implication, that as soon as such a separate Secretariat staff is created, rules and regulations governing it should be framed in respect of all matters, including financial matters. This separate self-contained

Secretariat staff for each House of Parliament does not form part of the normal Executive machinery of the Government. This obviously means that each House of Parliament must have its own staff, and if it is to have staff, then financial and other provisions must be made for it.

The question of the financial control over the Secretariat of Parliament has been discussed from time to time since 1947. The then Speaker, Shri Mavalankar was of the view that the Speaker was not only the Head of the Legislature but he also represented the sovereignty of Parliament, and on that basis the Speaker's autonomy in his Department in all matters, including finance, should be recognised. He was of the opinion that the approach to the question of the Speaker's autonomy should not be legislative or financial in a narrow sense of the term. Whatever may be the implications of the provisions in the Constitution, it was always open to the Government to come to an arrangement with the Speaker and recognise by convention his autonomy in financial matters. Having stated the position of the Speaker, he made it clear at the same time that on his part, he was prepared to accept the normal financial rules and regulations and provisions in regard to the orders that were applicable to the Ministries and Departments of Government. In his opinion, the autonomy of the Speaker did not imply the abrogation of normal checks, which the Speaker did himself gladly accept, as such acceptance on his part would assure not only members of Parliament but all concerned that the Speaker's Department was being administered under normal provisions and that normal checks were provided for.

The Speaker further made it clear that if he thought it necessary that there should be certain changes in the normal rules and provisions, so far as the Speaker's Department was concerned, these matters could be discussed first at the Secretary level, i.e. between the Secretary, Lok Sabha and the Finance Secretary, and if it was unresolved or there was difference of opinion, the matter could be discussed between the Speaker and the Finance Minister. He felt that if a procedure of that kind was evolved there would be no difficulty in coming to a certain arrangement both from the point of view of autonomy of the Speaker and of the necessity of having normal financial control. In April 1964, during the Budget Session, some members raised the issue of the expen-

diture of the two Houses of Parliament and it was decided by the Speaker that the Budget Estimates of the Lok Sabha may be sanctioned by a Committee under the Chairmanship of the Deputy Speaker and the Chairman of Public Accounts Committee and the Estimates Committee as its members before the estimates are submitted to the Speaker for his approval.

Conditions of Service and Recruitment Rules

The independent status of the Secretariat has since its very inception been recognized by the Government and it has been enjoying the same status as enjoyed by a Ministry (previously Department of the Government of India in regard to administrative as well as financial powers.

In 1948, while considering the recommendations of the Selection Board regarding appointments to Secretarial and senior non-Secretarial posts, Speaker Mavalankar observed:

Every officer, subordinate or otherwise, serving in the Secretariat of the Legislature must be in a position to carry out his duties without fear or favour of the Executive Government, and obviously this cannot be done, if persons in the employ of the Legislature Secretariat have to look upon such bodies as Selection Board, consisting of the officers and nominees of the Executive Government, for their chances and career in the Secretariat of the Legislature. Even in the old regime, when the Executive Government was not responsible to the Legislature and the entire power vested technically in the Governor—General, it was a well-established convention that the presiding authority (the Speaker) was the sole judge and controller in respect of appointments, promotions, etc., in the Legislative Assembly Department.

On the question of furnishing information concerning the Secretariat to the Establishment Proposal Committee set up by the Government of India, the then Speaker Mavalankar, on 2nd April, 1949, observed; "It should not be open to any Department of the Executive Government to scrutinize, much less challenge, what the Head of the Legislative considers necessary and proper".

The speaker had, however, agreed to required by the Committee on the condition that their recommendations would be forwarded to him confidentially for his consideration and would not form part of the formal report.

In 1955, during the consideration of the draft of the Recruitment and Conditions of Service Rules, the Government and the Union Public Service Commission agreed that there was no need to consult the Commission in regard to matters relating to officers of the Secretariat. A provision to this effect was accordingly made in the Union Public Service Commission (Exemption from Consultation) Regulations, 1958. The Commission is also not consulted in disciplinary matters and in claims for the award of injury pension to officers and staff serving in the Secretariat. The Administrative Tribunal Act, 1985 is also not applicable to any person appointed to the Secretariat staff of either House of Parliament.

The Secretariat thus makes its own recruitment and functions as an independent entity under the ultimate guidance and control of the Speaker.

According to the well-established convention, the orders issued by the Government to the Ministries and Departments of the Government of India do not automatically apply to the officers and staff of the Secretariat. Every order issued by the Government in regard to conditions of service of their staff is examined by the Secretary-General and if it is decided to extend the provisions thereof in toto to the officers and staff of the Secretariat, the adaptation orders are issued in the form of Recruitment and Conditions of Service Orders without consulting the Ministry of Finance or the concerned Ministry. Where, however, an exception, modification or alteration, etc. is considered necessary, the adaptation order is issued after consultation with the Ministry of Finance.

In regard to the orders of financial nature also, the Government has formally recognized that such orders do not automatically apply to the Secretariat, unless these are specifically extended by order of the Speaker. Where the Speaker decides to extend any such order, an adaptation order is issued.

In 1974, it was decided on the recommendations of the Parliamentary Committee for Pay Revision and Reorganisation to have joint recruitment to common categories of posts, for which direct recruitment is provided for in the Lok Sabha and Rajya Sabha Secretariats, by holding combined recruitment tests and interviews and drawing up panels on the basis of which appointments in any of the two Secretariats could be offered.

Parliament's Control of its own Budget :

Part C of the second Schedule of the Indian Constitution says :

“There shall be paid to the Speaker of the House of the People and the Chairman of the Council of States such salaries and allowances as were payable to the Speaker of the Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution, and there shall be paid to the Deputy Speaker of the House of the People and to the Deputy Chairman of the Council of States such salaries and allowances as were payable to the Deputy Speaker of the Constituent Assembly of the Dominion of India immediately before such commencement.

Article 112(3) of the Constitution lays down that the expenditure by way of salaries and allowances of the Chairman and the Deputy Chairman of the council of States and the Speaker and the Deputy Speaker of the House of People shall be charged on the Consolidated Fund of India.

Article 113 of the Constitution provides that much of the estimates relating to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament, but either House of Parliament can discuss any of those estimates.

In the case of Demands for Grants of the Ministries of the Government of India, the same are discussed and voted by Lok Sabha. Members can and do move cut motions in this regard. However, no cut motions or any discussions relating to the Budget of Lok Sabha/Rajya Sabha and its Secretariat is allowed on the floor of the House. If a member wishes to have any information, it

is supplied to him under the orders of the Speaker/Chairman.

Coming to the preparation of the budget estimates of the two Houses and their Secretariats, the Secretariats of Lok Sabha and Rajya Sabha are primarily responsible for this. These are incorporated in the Union Budget as separate Demands, *viz.* "Rajya Sabha" and "Lok Sabha".

In 1950, after the Constitution came into force, the Provisional Parliament was formed and provision in respect thereof was made under a separate Demand "Parliament", for the year 1950-51 and 1951-52. From 1952-53 to 1955-56, the provision in respect of the Council of States (Rajya Sabha) and the House of the People (now Lok Sabha) was made under the one Demand namely "Parliament". From 1956-57 onwards, the provision in respect of Rajya Sabha and Lok Sabha was separated and was incorporated in demands for grants under two separate Demands, *viz.* "Rajya Sabha" and "Lok Sabha".

The budget estimates of Lok Sabha/Rajya Sabha are prepared separately under three broad group heads : A. Rajya Sabha/Lok Sabha; B. Rajya Sabha Secretariat/Lok Sabha Secretariat; and C. Pay and Accounts Office, Rajya Sabha/Lok Sabha. The estimates are compiled by the Budget and Payment Branch of the Lok Sabha Secretariat and Establishment (G) Section of the Rajya Sabha Secretariat and submitted to the Secretaries-General of the respective Houses in the prescribed form for their approval.

In the Lok Sabha, after the approval of the Secretary-General has been obtained, the estimates are placed before the Committee appointed by the Speaker. The Budget Committee in Lok Sabha is headed by the Deputy Speaker and the Chairmen of the Public Accounts Committee and the Estimates Committee are its members. The estimates are submitted to the Speaker alongwith the recommendations, if any, of the Committee for his approval.

The Budget Estimates of Lok Sabha and its Secretariat are not subject to examination by any departmental committee of the Ministry of Finance, or any other Committee of Parliament. In case the Ministry of Finance has to make any suggestion in respect of the estimates, the same is submitted to the Speaker for his consideration and orders and a final decision acceptable to

both is arrived at after discussion.

In the event of any difference, the view point of the Speaker prevails, as it is for the Speaker to decide what is necessary for Lok Sabha and its Secretariat in the efficient discharge of its responsibilities. (So far there has been no instance of unresolved differences between the Speaker and the Minister of Finance). So far as the Rajya Sabha Secretariat is concerned, after the approval of the Secretary-General has been obtained, the estimates are sent to the Financial Adviser in the Ministry of Finance. The estimates, after being approved by the Financial Adviser, are forwarded to the Budget Division of Ministry of Finance for incorporation in the Union Budget as a matter of course.

Most of the expenditure included in the estimates is governed by the various Acts and rules and orders made thereunder. The estimates in respect of various works sponsored by the Secretariat in the Lok Sabha Sector of the Parliament House complex are compiled by the Lok Sabha Secretariat and for the Rajya Sabha Sector by the Rajya Sabha Secretariat and, after approval, are forwarded to the Ministry of Works and Housing for incorporation in their demands. The provision in respect of members residences *i.e.*, their upkeep and maintenance, etc., is made directly by the Ministry of Works and Housing.

The financial provision in respect of salaries, allowances and medical treatment charges of the Speaker/Chairman and the Deputy Speaker/Deputy Chairman is made in the budget of Rajya Sabha and Lok Sabha under the Group Head 'A' as a charged item. Provision is made under separate sub-heads in the same Group for the salaries of members, allowances, honoraria, etc.; medical aid to members; and payment to Railways on account of free railway passes issued to members; and any payment to Posts & Telegraphs Department for telephone facilities.

Ad hoc provision is also made, under this Group Head, for the Financial Committees and other Parliament Committees constituted from time to time, as also for meeting expenditure on Indian Parliamentary delegations going abroad under separate sub-heads, namely 'Indian Parliamentary delegations going abroad.'

Position in U. K.

Though both India and U.K. have the Parliamentary system, there are differences in the general principles of financial procedure in U.K. and India. In U.K., the Estimates and the Annual Financial Statement (*i.e.*, the Budget) are presented only to the House of Commons. They are not submitted to the House of Lords and the Lords have no concern with them. But under our Constitution [Article 112 (1)], the annual financial statement shall be laid before both Houses of Parliament and the estimates shall be open to discussion in either House of Parliament, but the demands for grants shall be submitted only to the House of the People [Article 113(2)]. In U.K., the presentation of the Estimates precedes the "*Introduction of the Budget*" or the Budget Speech by the Chancellor of the Exchequer. In India, the procedure of financial legislation is to start with the presentation of the annual financial statement, and then the consideration of the estimates take place.

In U.K., the annual financial statement or the Budget Estimate of the Chancellor of the Exchequer and the "Estimates" are presented before and dealt with by two Committees of the House called the Committee of Supply and the Committee of Ways and Means. In India, annual financial statement relates only to the Consolidated Fund, for no legislative sanction is required for payment out of the Public Account. The expenditure in the estimates to be met from the Consolidated Fund is presented to the House of the People in the form of Demands for Grants, except to the extent to which such expenditure is charged on the Consolidated Fund, and, in consequence, does not require a vote of the House of the People.

In U.K., expenditure or payments out of the Consolidated Fund are divided under two heads—"Consolidated Fund Services" and "Supply Services". The distinction between the two is that payments in respect of the Consolidated Fund Services are made under the authority of some permanent Act of Parliament or statute which makes a grant for fixed number of years. The result is that payments on account of the "Consolidated Fund Services" have not to be put to the vote of Parliament annually. Such payments would continue to be made without vote of Parliament

so long as the particular statute does not expire or is not repealed by some subsequent statute. Payment on account of the "Supply Services" on the other hand, have to be voted by Parliament each year. In India the items of expenditure included in Article 112(3) correspond to the "Consolidated Fund Services" of U.K. But the enumeration of the charges on the Consolidated Fund of India as contained here is not exhaustive. As sub-clause (g) says, it includes other expenditure declared to be so charged by any other provision of the Constitution.

Expenditure on Parliament

There is no doubt that there has been a sharp increase in the Central Government expenditure, because of inflation and many other factors. No wonder, the Parliament is no exception. The expenditure incurred by Lok Sabha and Rajya Sabha and there Secretariats includes the salaries, travel expenses, etc. of the Speaker, Deputy Speaker, Members of the Lok Sabha and for the Lok Sabha Secretariat, including its Pay and Accounts Office. It also includes the salaries and travel expenses of the Chairman, Deputy Chairman, Members of the Rajya Sabha and for the Rajya Sabha Secretariat, including its Pay and Accounts Office.

The following table gives an indication of the expenditure which various Ministries/Departments and the Lok Sabha and the Rajya Sabha Secretariats have incurred during the last five years:

Budgetary Expenditure on Ministries/Departments/ Parliament for the last five years

(Rs. in crores)

	Ministries/ Deptt.	Lok Sabha	Rajya Sabha
1988-89	73609.47	15.00	5.59
1989-90	82160.64	17.50	6.94
1990-91	106717.06	18.10	9.62
1991-92	113102.09	20.36	9.90
1992-93	119086.70	27.40	9.69

Conclusion

It is obvious that in a parliamentary system, the importance of having a separate Secretariat, independent of and unconnected with the Government, can hardly be over-emphasised. It was against this background that the question of the control over the Secretariat of Parliament has been discussed from time to time since 1947. Mr. Speaker Mavalankar was of the opinion that the Speaker was not only Head of the Legislature but represented the sovereignty of Parliament, and on that basis, the Speaker's autonomy in his Department in all matters, including finance, should be recognised. He was of the opinion that the approach to the question of the Speaker's autonomy should not be legalistic or financial in a narrow sense of the word. Whatever may be the implications of the provisions in the Constitution, it was always open to the Government to come to an arrangement with the Speaker and recognise by convention his autonomy in financial matters. Having stated the position of the Speaker, he made it clear at the same time that on his part he was prepared to accept the normal financial rules and regulations and provisions in regard to the orders that were applicable to the Ministries and Departments of Government. In his opinion the autonomy of the Speaker did not imply the abrogation of normal checks, which the Speaker did himself gladly accept, as such acceptance on his part would assure not only Members of Parliament but all concerned that the Speaker's Department was being administered under normal provisions and normal checks were provided for.

The Speaker further made it clear that if he thought it necessary that there should be certain changes in the normal rules and provisions, so far as the Speaker's Department was concerned, these matters could be discussed first at the Secretary level, *i.e.* between Secretary, Lok Sabha and the Finance Secretary, and if it was unresolved or there was difference of opinion, the matter could be discussed between the Speaker and the Finance Minister. He felt that if a procedure of that kind was evolved there would be no difficulty in coming to a certain arrangement both from the point of view of autonomy of the Speaker and of the necessity of having normal financial control. This posi-

tion has now been accepted, and in point of fact has worked in a satisfactory manner. Besides both the Constitution and the Lok Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1955 recognise the independent position of the Secretariat under the authority of the Speaker.

ROLE OF PARLIAMENT IN SHAPING FOREIGN POLICY

Eduardo Faleiro

The roots of our foreign policy originate in our ancient civilization, our political, economic, social and cultural interactions over the centuries with other countries, lessons drawn from the freedom struggle, our domestic circumstances and the geopolitical situation. The basic principles of our foreign policy were enunciated by our first Prime Minister, Pandit Jawaharlal Nehru. These were promotion of global peace and harmony, non-alignment, peaceful co-existence and the struggle against colonialism and apartheid. These principles have since served as the foundation of our foreign policy.

While the making of foreign policy is essentially the function of the Cabinet, there is close interaction between the Parliament and foreign policy which has been provided in the constitutional framework. Under the parliamentary system Government is collectively responsible to the Legislature. The Cabinet can continue in office only so long as it enjoys the confidence of the Lok Sabha. This basic constitutional mechanism ensures that our foreign policy reflects national interests as seen by the Indian

polity. Inter-action between Parliament which represents the Indian public opinion and the Cabinet which frames foreign policy is thus enshrined in the framework of our Constitution.

Legislative influence on the making of foreign policy also emanates from the Directive Principles of the Constitution as enshrined in Article 51 of the Constitution.

The evolution of India's external relations since independence has reflected the conceptual principles embodied in the Directive Principles. The promotion of international peace and security has been one of the cardinal principles in the making of India's foreign policy. Peace for India does not merely mean the absence of war but meaningful co-operation with nations. Our forefathers were convinced that India could play a meaningful role in building an environment of peace and co-operation only by rejecting alignment with any power bloc. National honour and national interest demanded that India's foreign policy on various international issues should be framed on the basis of independent judgement. While referring to the Non-aligned Movement in a debate on foreign affairs, Pandit Jawaharlal Nehru said in Lok Sabha on 20 August, 1958:

Our foreign policy has thus this positive aspect of peace. The other positive aspects are the enlargement of freedom in the world, replacement of colonialism by free and independent countries and a large degree of co-operation among nations.

He further said :

"I have not originated it. It is a policy inherent in the circumstances of India, inherent in the past thinking of India, inherent in the whole mental outlook of India, inherent in the conditioning of the Indian mind during our struggle for freedom and inherent in the circumstances of the world today".

Apart from the constitutional framework and Directive Principles which provide a link between Parliament and the making of foreign policy, the Constitution gives Parliament the right to legis-

late on subjects pertaining to foreign affairs. These subjects fall into following categories :

- (i) All matters which bring the Union of India into relation with any foreign country;
- (ii) Diplomatic, consular and trade representation;
- (iii) United Nations Organisation;
- (iv) Participation in international conferences, associations and other bodies and implementing of decisions made thereat.
- (v) Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries;
- (vi) War and Peace;
- (vii) Foreign Jurisdiction;
- (viii) Citizenship, naturalization and aliens;
- (ix) Extradition;
- (x) Admission into and emigration and expulsion from India; passports and visas; and
- (xi) Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.

The conduct and making of India's foreign policy is to a very great extent influenced by the discussions on foreign policy issues in Parliament. These discussions take place through a number of institutional and procedural mechanisms. The procedures available for discussion include meetings of the Consultative Committee for the Ministry of External Affairs, debates on the budget of the Ministry of External Affairs, discussion during Question Hour, calling attention notices, resolutions, debate on the Motion of Thanks on the President's Address, etc.

The debate on the budget of the Ministry of External Affairs involves intensive discussions of the foreign policy of the Government. As a mechanism for the control of the general direc-

tion of foreign policy, the budget debate serves a very useful purpose.

Apart from discussion on foreign policy during presentation of budget, the Consultative Committee meetings also provide a forum for informal discussions between members of Parliament and the Minister of External Affairs. Detailed briefs on various aspects of India's foreign policy are prepared by the Ministry of External Affairs and these are discussed during the meeting of the Consultative Committee of Parliament for the Ministry of External Affairs. Similarly, the Estimates Committee of Parliament and the Public Accounts Committee also keep a watch on the actual functioning of the Ministry of External Affairs and from time to time they report on economy and efficiency.

One of the methods through which the House can bring its influence to bear on the Government in the making of foreign policy is through questions in Parliament. The Question Hour provides a kind of safety-valve to which day-to-day policy making is subjected to scrutiny in Parliament. The subjects covered by Questions include the Indian position on various international and regional developments and the stand taken by the Government on various issues of India's external relations. Important subjects such as India's foreign policy perspectives on Non-aligned Movement, foreign policy changes contemplated by the Government in the post-Cold War international relations, India's bilateral relations with neighbouring countries are discussed during Question Hour. Through the replies and the presentation of facts in Parliament, the Ministry of External Affairs keeps the House up to date with the policy formulation in the Ministry of External Affairs on various issues. Parliamentary resolutions also provide mechanism for influencing the foreign policy. On several occasions, our Parliament has passed resolutions on the stand of the Government on specific issues in the domain of foreign relations. Resolutions are an important means by which members of Parliament express their opinion and thereby convey shades of opinion on governmental decisions. On several occasions, members of Parliament have adopted motions which are raised under parliamentary procedure. These motions are generally moved either to discuss report or settlement of policy or a situation of national importance which may have occurred recently. These motions and resolutions

give rise to exchange of views between the Opposition and the ruling party and thereby the public is kept informed of the major trends in foreign affairs.

The Government also sponsors goodwill delegations which include members of Parliament for visits abroad. These visits provide members of Parliament with an opportunity to have discussion on policy issues with their counterparts and other functionaries.

India's foreign policy, while retaining continuity in basic principles, has also elements of flexibility. The global political and economic structure has undergone significant changes in the post-Cold War era. The super-power rivalry has given way to the easing of East-West tensions. The trend in international relations is towards co-operation in place of confrontation. India's foreign policy addressed itself to these changes and has adapted to the new structure of international relations. In fostering flexibility while at the same time retaining continuity of basic principles, the Parliament has a great role to play through various deliberations and discussion in Parliament. The policy-makers in the Ministry of External Affairs get the broad strands of changing public opinion in the country and at the same time through these interactions, the Legislature is kept abreast of current developments in India's external relations.

ELECTORAL REFORMS IN INDIA AN ON-GOING PROCESS

H. R. Bhardwaj

India can be legitimately proud of being the largest parliamentary democracy in the world. With an electorate of over 500 million and its success in holding regular and periodic elections, the country has demonstrated its abiding faith in democracy and has proved the intrinsic strength of the democratic system and the wide acceptance by the Indian masses of the democratic way of life. The country has held ten general elections to the national Parliament and over 250 elections to State Assemblies during the last 42 years, all based on universal adult franchise. The entire credit for this achievement has to go to the Indian people who have, time and again, displayed a remarkable maturity of political judgement by voting to power and out of it Governments of their choice.

The sheer magnitude of the operation of conducting elections on a scale unparalleled elsewhere has evoked respect and acclaim the world over. But no system is perfect and none suitable for all the time to come. The electoral process is no exception. The laws relating to elections and the procedures governing

their conduct have to be adopted to the changing needs of the society and the situational compulsions. For example, the growing cult of violence arising from social tensions, affects all walks of life, including elections. The electoral laws have, therefore, to be reviewed and, if necessary, amended from time to time so that the conduct of elections is free and fair and that, the people of India continue to manifest their sovereign will truly and fully in the governance of their country. This has been the constant endeavour of successive Governments which have come to power with electoral laws having been amended several times. Even the Constitution has been amended on occasions with the same objective.

The Constitution of India itself contains the basic provisions for ensuring free and fair elections. These are contained in Part XV of the Constitution (Articles 324 to 329). The Constitution provides that the elections to the House of the People (the Lower House of Parliament, known as 'Lok Sabha') and to the Legislative Assemblies of the States shall be on the basis of universal adult suffrage without any distinction on grounds of religion, race, caste or sex. The Constitution also provides for an independent Election Commission for conducting all elections to the national Parliament, to the Legislatures of every State and to the offices of the President and Vice-President. The Independence of the Election commission is ensured by the constitutional provision that the condition of service of the Chief Election Commissioner cannot be varied to his dis-advantage after his appointment, that he cannot be removed from office except in like manner and on the like grounds as a judge of the Supreme Court. The Constitution has empowered Parliament to enact laws with respect to all matters relating to elections. In order to ensure that matters relating to elections do not drag on in courts of law, the Constitution provides that the validity of any law relating to delimitation of constituencies shall not be called in question in any court of law and that no election to either House of Parliament or either House of the Legislature of a State can be called in question except by way of an election petition presented to the appropriate court.

Within the Constitutional framework, Parliament, in the very first year of the Republic, enacted the Representation of People Act, 1950, which provides for the allocation of seats in and the delimitation of constituencies for the purpose of election of the

Lok Sabha and the Legislatures of the States, the qualification of voters at such elections, the preparation of electoral rolls and the manner of filling seats in the Upper House of Parliament known as the Council of States (Rajya Sabha) and matters connected therewith. The Representation of People Act, 1951 which was enacted the following year, contains provisions for conduct of elections to the House of Parliament and to the State Legislatures, the qualifications and disqualifications for membership, provisions relating to corrupt practices in elections, other offences relating to elections and the machinery and procedure for resolution of disputes arising out of or in connection with elections. The 1951 Act also provides for the administrative machinery for the conduct of elections, registration of political parties, details of procedure for conduct of elections, such as nomination of candidates, appointment of election agents, the holding of actual poll, counting of votes, publication of election results, election expenses, election petitions, including appeals and procedure for conduct of by-elections.

On the basis of experience gained in holding three general elections in 1952, 1957 and 1962, the first major amendment to the Representation of People Acts, 1950 and 1951 was undertaken in 1966. Based on the recommendations of the Election Commission, this amendment provided, *inter alia*, for the consolidation of the provisions relating to seats and delimitation orders, creation of a new officer to be known as a District Election Officer in the electoral machinery, revision of electoral rolls according to the direction of the Election Commission, consolidation of the provisions relating to disqualification for membership and for voting, toning down of the rigours of electoral disqualification for failure to submit accounts of election expenses, reduction in the time-table for holding general elections, provision for fresh poll in the case of destruction or loss of ballot papers, power of Election Commission to withhold the declaration of election results in certain cases, trial of election petitions by High Courts and making free conveyance of voters, a corrupt practice.

Election laws were again amended in 1989, when Parliament passed the Representation of people (Amended) Act, 1989. This Act provided that the Chief Electoral Officers and the District Election Officers would be deemed to be on deputation to the

Election Commission for the period they were engaged in election work so as to make them answerable to the Commission. The amendment also provided for a statutory definition of a political party for the purpose of registration of political parties with the Election Commission, inclusion of some more acts in the list of electoral offences with a view to preventing persons having criminal record from entering public life, provision for the use of electronic voting machines, inclusion of specific penal provisions to deal with the offences of 'booth-capturing' and rigging and making them corrupt practices. A historic provision of the amendment related to the lowering of the voting age from 21 years to 18 years.

In 1990, a Committee was appointed by the Government under the Chairmanship of the then Law Minister to consider various suggestions for electoral reforms. The members of the Committee included leaders of various political parties and experts in election law. On the basis of the recommendations of the Committee, legislative measures were initiated and four Bills were introduced in Parliament in 1990. One of these, which relates to the service conditions of the Chief and other Election Commissioners, has been enacted into law. A Constitution Amendment Bill relating to delimitation of constituencies on the basis of the latest census and another relating to the manner of appointment of the Chief and other Election Commissioners and making them ineligible for further appointment are pending consideration by Parliament. This measure and the one relating to service conditions are meant to ensure independence of the Election Commission.

The main proposals for electoral reforms are contained in the Representation of People (Amendment) Bill, 1990 introduced in May, 1990 and pending in Parliament. This Bill, among other things, seeks to provide for an increase in the amount of security deposit with a view to discouraging non-serious candidates entering the election fray, empowering the election Commissioner to countermand an election where he is satisfied that 'booth-capturing' has taken place even without getting a report from the Returning Officer, conferment of powers on the observers appointed by the Election Commission to issue directions to the Returning Officer in the conduct of polling and state funding of election in the form of free supply of copies of electoral rolls, diesel/petrol and microphones to candidates set up by the recognised political

parties.

In June, 1991, further comprehensive proposals were made by the Election Commission to the Government. The recommendations of the Committee on Electoral Reforms, constituted in 1990, are being given a fresh look in the context of a comprehensive review of the entire gamut of electoral reforms. Some of the major areas in which reforms are being contemplated are :

- (i) measures for discouraging non-serious candidates. This is proposed to be done by increasing the security deposits of candidates and by increasing the number of proposers required for nomination of candidates;
- (ii) restriction on candidates from contesting elections from more than one constituency;
- (iii) reduction in the duration of campaign period;
- (iv) empowering of the Election Commission to adjourn poll in emergencies;
- (v) automatic disqualification of candidates in cases of their being found guilty of any corrupt practice by a court of law;
- (vi) automatic disqualification of a candidate on being convicted for any electoral offence;
- (vii) amplification of the scope of the offence of 'booth-capturing' to take into account more situations;
- (viii) provision of more stringent punishment for illegal hiring of conveyance for election purposes;
- (ix) enhancement of punishment for certain more serious electoral offences;
- (x) State funding of elections to candidates of recognised political parties in the form of free supply of copies of electoral rolls, diesel/petrol, identity slip of voters, etc;
- (xi) introduction of photo-identity cards for voters;
- (xii) clubbing the expenditure incurred by political party on the election of a candidate with the election expendi-

ture of the candidate for purposes of calculating expenditure incurred in election;

- (xiii) making ceiling on election expenses more realistic;
- (xiv) de-registration of political parties under certain circumstances;
- (xv) making the breach of Model Code of Conduct agreed to by political parties an illegal or corrupt practice;
- (xvi) setting up of multi-member Election Commission;
- (xvii) statutory backing to observers nominated by the Election Commission and enlargement of their powers;
- (xviii) fixing a time-limit of six months for holding by-elections; and
- (xix) ban on donations by companies to political parties.

For enabling early introduction of Electronic Voting machines, amendments have been made to the Conduct of Election Rules. Parliament has also amended the Representation of people Act, 1951 to provide that an election need be countermanded only in the case of the death of a candidate belonging to a recognised political party. This measure is meant to prevent frequent disruption of the election process as independent candidates have of late become easy targets of political violence.

In any event, the success of a sensitive issue like electoral reforms would largely depend on the willing acceptance and co-operation of political parties. It is, therefore, essential that consensus from the widest spectrum of political opinion is obtained before making changes in the law and procedure of elections.

Electoral reforms is an ongoing process and are to a very large extent influenced by the prevailing political climate of the country. As the saying goes, 'eternal vigilance is the price of liberty' and so it is with electoral reforms. It is the responsibility of leaders of public opinion to keep a vigilant eye on the malpractices that are creeping into the democratic process and take prompt steps to weed them out.

PARLIAMENT AS AN INSTRUMENT OF NATIONAL INTEGRATION

Uttambhai H. Patel

It goes without saying that the role of Parliament and parliamentary institutions is indeed most significant in our national life. Broadly speaking, in a parliamentary democracy like ours the three principal organs of Government at the Union and in the States are the Legislature, the Executive and the Judiciary. While the Legislature is instrumental in enactment of laws, it is the Executive which is responsible for the implementation of the laws based on policies and programmes formulated within the framework of the laws enacted. The Judiciary on its part plays a most vital role in reviewing the action of the legislature, the Executive and individuals (citizens and aliens alike) to ensure that the actions are all within the framework of the laws of the land, which, in turn, should be within the framework of the Constitution.

As the instrument of Legislature at the national level, it is Parliament which is responsible for the enactment of all legislation applicable to the entire country within the broad framework of our country's Constitution. It may be added here that the State Legislative Assemblies which are responsible for all legislation within

their respective States are all functioning within the broad framework of the legislation enacted by Parliament for the entire country. It is interesting and pertinent in this context to throw some light on the very inception, evolution and firm establishment of Parliament and parliamentary institutions as the national legislative organ of our Sovereign Democratic Republic with its quasi-federal structure.

At the time of Independence of 15 August, 1947, it was a Constituent Assembly at the Centre which took over the reins of the national Government. This Constituent Assembly took up the uphill task of formulating our country's Constitution step by step. This thorough and systematic national exercise involving stalwarts like Sardar Patel, Babasaheb Ambedkar and Jawaharlal Nehru, to mention only a few, was completed in just 2-1/4 years — a stupendous accomplishment indeed. All the framers of our Republican Constitution, one of the World's most ideal constitutions, were great pillars of national integration with a very broad-based and all inclusive outlook, both culturally and politically. Realising the socio-political requirements and realities of a multi-lingual, multi-religious and multi-racial nation, they took the greatest of pains in giving our Constitution its all embracing and truly representative character. It was over this very same formative and decisive phase of Independent India's history that the complete integration of so many Princely States scattered over vast areas throughout the country, was accomplished under Sardar Patel's dynamic stewardship. The concrete and tangible political integration of our entire country was thus complete by the time our Republican Constitution was adopted unanimously by our Constituent Assembly on 26 November, 1949. At the same time, as per broad consensus it was on 26 January, 1950 that our Republican Constitution was put into effect. This step was in commemoration of 26 January, 1930, the day on which the Indian National Congress for the first time under Mahatma Gandhi's leadership passed the resolution proclaiming India's complete independence.

It is pertinent to note here that the three organs of Government at the national and State level in our quasi-federal structure are all sanctioned by our Republican Constitution. Yet, what is most interesting to observe here is that it is our Legislature that

has emerged as the novel creation of our Constitution. Structurally analysed, our judiciary in its present form was a creation of the *British Raj* with the basic system of modern jurisprudence itself having its origin in Macaulay's Minute (which was supported by Raja Ram Mohan Roy) and implemented for the first time in the 1830s by the then Governor General William Bentinck. And structurally analysed, the origins of our executive can be traced to as far back as Chanakya's '*Arthashastra*' of the 4th century B.C. It was the very same executive structure described in '*Arthashastra*' which was adopted by all successive dynasties and governments in India right up to the British Raj, with varying systems of jurisprudence no doubt. This is clearly borne out by R.M. Panikkar in his '*Survey of Indian History*'. Independent India too has inherited this very same executive structure, but with one vital difference, *viz.* our Executive today is answerable to the State and its citizens in terms of our present Constitution and legislation enacted by our Parliament and the State Assemblies which are the novel legislative establishments under our Constitution. Having thus analysed the role of our Legislature in Independent India in relationship to our Executive and Judiciary, it will certainly be worthwhile to throw some light on the role of our national Legislature (Parliament) in promoting and sustaining India's unity in diversity as a concrete and living reality.

In a nutshell, the very backbone of our parliamentary democracy is the 'one man one vote' principle of adult franchise. This is the very key to the truly representative character and composition of our national and State Legislatures. In the normal course, elections are held for the Lok Sabha and the Vidhan Sabhas, every five years on the basis of duly revised electoral rolls and constituencies demarcated locally throughout the country on the basis of population. The application of the 'one man one vote' principle of adult franchise to each and every Lok Sabha constituency ensures due proportionate representation in the Lok Sabha to each and every area on the basis of its total electorate. Each such constituency representing its specific area and electorate in turn accounts for each seat in the Lok Sabha. The total number of Lok Sabha seats for each State or Union Territory is equal to the total number of constituencies located in the State/Union Territory. This ensures proportionate regional representation in

the Lok Sabha on the basis of the total adult population (electorate). Likewise for the State or Union Territory/Assembly the identical delineation of electorate based Vidhan Sabha constituencies ensures proportionate local representation based on the total electorate. Here it is very interesting and important to note that in the identification of electorates and the delineation of constituencies, factors like religion, language, caste, race or other denominational considerations have no role to play whatsoever. The 'one man one vote' principle of adult franchise applied uniformly, irrespective of denominational considerations, makes our parliamentary democracy the political pillar of national integration. It is equally pertinent to note that the 'one man one vote' principle is applied irrespective of gender considerations, with women guaranteed the very same electoral and political rights as men. And while Parliament is truly representative of the entire nation politically, it is the Constitutional institutions like the Election Commission that help sustain and ensure Parliament's truly representative character. After all, it is the Election Commission which is instrumental in updating the electoral rolls and delineating the constituencies to ensure proportionate representation with full democratic justice to all citizens alike without fear or favour.

The quasi-federal character of our Constitution becomes very relevant in the context of Parliament's jurisdiction and functional role as the political and legislative instrument of our national unity and integrity. An analysis of our national political structure defined or described by our Constitution reveals India to be neither a unitary nor a federal state. India is defined as a Union of States and not a federation of States. Characteristics of both the unitary and federal political structures are systematically interwoven into the Indian political structure as a whole-some blend based on not only the requirements of national political unity but also the practical socio-political and administrative realities presented by our vast area and population. Unlike federal State such as Germany, France, the USA and Malaysia, the political system in India leaves no scope for dual citizenship or flags of the respective federating units. Unlike federal States, India has a single integrated Judiciary, with the supreme Court at the apex having the appellate power to review and overrule the verdicts of the High Courts. Moreover, in federal States, the federal (central)

Government's jurisdiction is restricted to defence, foreign affairs, currency and communications. In India on the other hand the Centre's jurisdiction covers a vast number of subjects listed as Union subjects. No doubt, depending on administrative feasibility and requirements, it has been essentially to categorise various subjects as State subjects. At the same time there are various subjects where implementation has to be left to the States on grounds of administrative feasibility and requirements. Yet Central involvement too is deemed essential on practical considerations or else on grounds of national unity. Such subjects are listed as Concurrent Subjects.

Now, it is Parliament which has exclusive jurisdiction with respect to legislation on all subjects in the Union List. The State Assemblies have exclusive jurisdiction on legislation with respect to subjects in the State List. Regarding subjects in the Concurrent List both, Parliament and State Assemblies have legislative jurisdiction. Even with respect to subjects in the State List, legislation by the State Assembly has to be within the framework of not only our Constitution but also all parliamentary legislation enacted within the framework of our Constitution. Parliament is empowered to pass pertinent legislation striking down any State Assembly legislation that violates the Constitution or any parliamentary legislation enacted within the framework of the Constitution. Regarding subjects in the Concurrent List, in case of any overlapping in legislation by Parliament and State Assemblies, the latter is deemed invalid and the Parliamentary legislation alone is operative.

A very vital aspect of Parliament's legislative powers in preserving and safeguarding the country's political unity is the constitution provision for proclaiming President's Rule in any State. No doubt President's Rule can be imposed in any State by the executive action of the Centre in any situation with ample evidence that the State's administration can no longer be continued effectively, with the constitutional framework under the existing State Government. Yet this executive proclamation has to be ratified by Parliament legislation enacted with the requisite majority (2/3 of the members present voting and an absolute majority of both houses). And any extension of President's Rule beyond six months requires ratification by Parliament.

Within our quasi-federal structure no doubt, article 370 of the Constitution confers on Jammu & Kashmir a greater measure of autonomy than on other States. However, there are two very relevant aspects to be noted in the very application of article 370. First of all, though the greater autonomy conferred on Jammu & Kashmir has been for an indefinite period it is not meant to be a permanent feature. It is pertinent in this context to note that in the ratification of the Instrument of accession by the Jammu & Kashmir Assembly on 17 November, 1957, section 3 of our Constitution was adopted clearly confirming Jammu & Kashmir as an integral part of the Indian Union. Upto 1953, Jammu & Kashmir had total autonomy in all subjects except for just three Central subjects, viz. defence, external affairs and communication. The Constitution (Application to Jammu & Kashmir) Order, 1954 extended Parliament's legislative authority to Jammu & Kashmir on all Union and Concurrent Subjects, with specific regulations making the J&K Government's concurrence mandatory and consultation alone with the J&K Government mandatory in such subjects not covered in the Instrument of Accession, and consultation alone with the J. & K. Government mandatory in such subjects covered by the Instrument of accession. This order also confirmed that States Financial integration with the Indian Union. Thereafter the attempt over the years has been towards Jammu & Kashmir's greater integration step by step with the rest of the country. And this greater degree of integration in gradual stages is possible within the very provisions of article 370 itself. It is also pertinent in this context that even prior to 1953, Jammu & Kashmir did not enjoy the same autonomy as the federating units of any full fledged federal state. The Supreme Court's jurisdiction extends equally to Jammu & Kashmir too except with respect to articles 135 & 139. With the State's concurrence where necessary, Parliament is fully competent to enact legislation applicable to Jammu & Kashmir, including ratification of proclamation of President's Rule in Jammu & Kashmir as in any other State. The same legislative principle is equally applicable to Jammu & Kashmir that any legislation by its State Assembly must be within the framework of the Constitution and all parliamentary legislations enacted within the framework of the Constitution, except in cases clearly specified under the provisions of the article 370. The only prominent exception is that Jammu & Kashmir has its specific

Constitution adopted by its State Assembly on 17 November, 1957. This State Constitution adopted under the very provisions of Article 370, categorically confirms Jammu & Kashmir as an integral part of the Indian Union.

We have thus analysed how our quasi-federal structure with Parliament at the national legislative apex amply sustains and nurtures our strong bond of national unity within the vast diversities prevalent in our great country. The fullest representation in Parliament of our entire electorate of each and every State and Union Territory, constituency by constituency, irrespective of denominational considerations, completely ensures Parliament's nationally representative character. Legislation aimed at the welfare of the entire country and all its Citizens is the moral and constitutional responsibility of Parliament, comprised as it is of citizens of all denominations from all parts of our country.

It goes without saying that the very concept of national integration can take concrete shape only through the socio-economic integration of all sections of our vast and diverse society. For this, the uplift of all weaker sections of our society is a must, and it is appropriate indeed that parliamentary legislation over the years has been oriented towards the socio-economic uplift and welfare of our weaker sections.

Moreover, it is a well known fact that India lives in its villages and has a predominantly agrarian economy. It thus goes without saying that adequate and appropriate rural representation is absolutely essential for our parliamentary democracy to sustain its truly representative national character. Fortunately the 'one man one vote' principle of our universal adult franchise automatically ensures proportionate parliamentary representation to our rural population. Beyond doubt the vast majority of our parliamentary as well as Assembly Constituencies are located in rural areas. Anyway numerical representation alone can have no concrete meaning unless backed by meaningful and sustained socio-economic development. With this in view, progressive legislation has been enacted over the years by Parliament as well as the State Assemblies to promote and sustain rural development in every way. The States and Union Territories are responsible for implementation of all our rural development programmes, giving

solid and concrete shape to all rural development. Nevertheless, the Union is responsible for basic policy formulation, funds' allocation and all possible aid to the States' programmes, and the Centre's policies are (needless to say) pursued with the backing of pertinent parliamentary legislation. Side by side with monitoring of rural development activities by the Centre, the Parliamentary Consultative Committee on Rural Development plays a complementary role in assessing the area wise and region wise developmental needs to promote and sustain balanced regional development. In short, balanced regional development is a vital factor in giving concrete shape to national integration on the practical plane. Parliament can thus be seen to play a key role in inspiring national integration not only in spirit but also in terms of living practical realities of our national development.

Our parliamentary democracy with its nationally representative and all-inclusive character with ample scope for dissent and discussion at all levels, is indeed replete with effective safeguards that bind the entire nation together with optimum flexibility. Parliament is the very institution for evolving national harmony and consensus out of the widest possible dissent and divergence of views. Parliament is where dissent and divergence are all brought to the fore and resolved amicably through debate and discussion. Our parliamentarians belong to any number of political parties with widely varied ideologies. Independent members too professing their own individual ideologies find a place of due respect and prominence in Parliament. All aspects of our national and even international policies are discussed threadbare and put to vote.

A vital and inseparable feature of our parliamentary system is that Parliament apart from its house of the People (Lok Sabha) also has its Upper House, *viz.* the Rajya Sabha. The Rajya Sabha comprises eminent personalities who are highly knowledgeable citizens capable of exercising mature discretion in steering the course of all national legislation. It is interesting to note that it is the Lok Sabha and Vidhan Sabha members who are elected in the countrywide general elections conducted through universal adult franchise. In turn it is the people's elected representatives of the Legislatures of States & Union Territories who elect the respective members of the Rajya Sabha from among

mature and knowledgeable personalities, whose valuable discretion gives the correct and desirable orientation to all our national legislation basically evolved through detailed debate and discussion among the people's elected representatives of the Lok Sabha. This system at its own level naturally takes care of the nationally representative character of the Rajya Sabha too. Further, the Rajya Sabha has a special provision for nomination of 12 members by the President of India, based on special knowledge or practical experience in subjects like literature, science, art and social service.

In tangible and practical terms, this implies that for any bill to be passed by Parliament it has to be passed in both the Houses of Parliament. A bill passed by the Lok Sabha has to be ratified by the Rajya Sabha. Thus we see how any act of parliamentary legislation reflects not merely a truly representative character but also the desirable orientation given by knowledgeable, mature political leadership.

In thus analysing the supremacy of Parliament as our national legislative organ we have seen the truly representative character of this supreme legislative institution. Parliament is verily the legislative pillar of the political unity and integrity of our Sovereign Democratic Republic. It is indeed Parliament and the vital Parliamentary Institutions that foster and sustain the living spirit of our Democratic Republican Constitution on the political plane, ensuring due representation to each and every citizen, irrespective of all denominational considerations like religion, caste, race, language or place of birth.

SUBJECT COMMITTEE REFORMS

J. Chokka Rao

Parliamentary Committees play an extremely useful and important role in the working of Legislatures all over the world. Parliamentary Committees are in fact the very pivot on which the parliamentary system as a whole functions.

Considering the complex issues which Legislatures are faced with, and the paucity of time to deal with each of the issues, Legislatures need an agency of their own through which they can effectively function.

The most viable method has been the setting up of a number of Committees, each with specific terms of reference, through which a great deal of parliamentary business can be conducted, both smoothly and efficiently. Moreover, this system of Parliamentary Committees also ensures an effective parliamentary control over the Executive.

Over the years, it is this form of Committee System that has become the fulcrum of modern parliamentary functioning.

Although the work done by these Committees in improving Executive accountability is accepted beyond doubt, however, considering the present complexity of government functions, especially in view of the multifarious roles adopted both by the States and the Centre, the existing system of Committees has begun to show that it is finding it difficult to cope with these new complexities. This has thus led to a search for better methods, tools, and techniques for the discharge of legislative responsibilities and for the urgent need to bring about reforms in the existing Committee system.

The need to bring about reforms in Parliamentary Committees has been discussed at many conferences both in India and abroad. The first step in this direction was taken in the Conference of Presiding Officers of Legislative Bodies in India held at Bhubaneswar on 21 January, 1978. The then Speaker of Lok Sabha, Shri K.S. Hedge, while presiding over the Conference, said:

"Parliamentary control over the Executive must be effective without reducing the efficiency of the Executive. In England now Committees go to the rural areas and work there and take evidence so that people may know what is happening."

It was in this Conference that an attempt was made for setting up of *ad-hoc* Budget Committees to scrutinise pre-voting for Demands, for Grants, for all Ministries and Departments. It was also recommended that senior Government officials concerned may be present during the sittings to assist the Committees in their deliberations. In fact, as early as 1978, the need was felt to have expert and knowledgeable assistance wherever required and a Research Wing".

The question of introducing a Subject Committee system was discussed in detail during the Third Regional Commonwealth Parliamentary Association Seminar held in New Delhi in January, 1984. The matter was also debated in the Presiding Officers Conference held in Calcutta in October, 1984, in which there was a general agreement on the desirability of setting up Budget Committees for an indepth scrutiny of Demands for Grants on experimental basis. Again at the Committee of Presiding Officers held in Trivandrum in June, 1985, and the Presiding Officers Conference

in Lucknow in October, 1985, the Report on the setting up of ad hoc Budget. Committees for pre-voting scrutiny of the demands for grants of all Ministries was considered and adopted.

A far-reaching proposal was taken by the Rules Committee of the 8th Lok Sabha at its sitting held on 30 March, and 9 May, 1989, to consider and approve the proposal to set up three Subject Committees namely—the Committee on Agriculture, the Committee on Science and Technology and the Committee on Environment and Forests. Rules 331(C), 331(E) and 331(G) of the Rules of Procedure and Conduct of Business in Lok Sabha relating to these Committees was finally approved by the House and the Committees constituted with effect from 18 August, 1989.

The Speaker of the Tenth Lok Sabha, Shri Shivraj V. Patil has indeed taken a pioneering step in this direction by suggesting the setting up of 10 more departmentally related Subject, Committees which would scrutinise the Demands for Grants of respective Ministries, and Bills, before they are taken up in the House, and also matters related to policies of the Government. This would go a long way in strengthening the Committee System and also making the Executive more accountable to Parliament. Besides, these Committees would also be reporting on what are the likely areas of economy, improvement in organisation, efficiency or administrative reform consistent with the policy approved by Parliament. The rules implicitly state that in their function to examine the activities of the various Ministries and Annual Reports thereof, the Committees may associate specialists, technical experts, consultants, etc. while examining their subjects.

While the rules have been framed, of course, taking into consideration the working of these Committees, to make these Committees really effective, it is also felt that the related rules should be changed and consequently made more effective so that the Committees are given more teeth.

In the last one year, the Committee on Agriculture has been able to complete nine Reports on various subjects related to agriculture and its allied activities. However, owing to certain extraneous factors only five Reports were laid on the table of the House, before the term of the Committee expired after a period of one year. The subject Committees, if they are properly strength-

ened will be the forerunners of the future Committee System and this will be the most effective way by which Parliament can conduct its business in the House. Throughout the Commonwealth today, there has been an increasing trend in using the Committees to elicit facts, examine proposed legislation and recommended policies. Also with the increasing demand for open Government and right to information in most countries, there is a growing realisation that elected Governments have to depend very largely upon the work of the Parliamentary Committees.

A strong Committee System requires not only that the infrastructure given to the Committees be strong but also that the members who constitute these Subject, Committees should have political will and motivation for working in these Committees. In an article, 'Committees in Legislatures—A Comparative Analysis', published by Duke University Press in 1979, the chapter on the 'Committees in the Indian Lok Sabha' concludes thus:

Ultimately the success of parliamentary Committees in the Lok Sabha will consist in Members taking an adequate interest in committee work and developing the necessary expertise without losing their perspective as politicians. Equally, the success of Committees will depend on the government co-operating with them by providing full and timely information. At the same time the Committees must obtain expert research and other professional assistance.

To strengthen the infrastructure, it is essential that the subject-based Committees make use of the experts in their respective fields who can give their valuable advice and suggestions to the members of the Committee. After all what is required is information gathering. Members can sift information given by the experts to make use of what is really necessary in finalising reports which will be ultimately of use both to Parliament and to the nation. Thus, an adequate staff with the right qualifications and the right expertise to deal with these specialised subjects is of paramount importance if Subject Committees are to function effectively.

The Subject Committees should also deviate from the traditional practice of making long reports. Their reports should be

pithy, contemporaneous with regard to the issues examined, and more importantly, should serve to open a dialogue between Ministries/Departments and the Committee Members. The Reports should not be a mere post-mortem of past issues. Again, action taken on the recommendations by the Ministries should not merely amount to giving evasive replies, as such as 'Noted for compliance', 'Noted for future please', 'will be complied with', etc. the reply of the Ministries should bring into sharper focus the recommendations of the Committee. Reasons for non-acceptance of the recommendations should invariably be given as they would definitely start a meaningful dialogue between the Ministry/Department and the Committee. As stated earlier, it is for formation of these Subject Committees which will surely be a landmark in Parliamentary Committee Reforms.

To conclude, I quote again from the article, "Committees in Legislatures—A Comparative Analysis", which states,

It seems likely that the future of Committees in Lok Sabha lies in the direction of their becoming effective instruments for making management-type enquiries into administration. Such enquiries should lead to scrutinising performance or efficiency harnessed to the needs of both Parliament and the Government.

COMMITTEE ON GOVERNMENT ASSURANCES**Bapu Kaldate**

In a parliamentary democracy, the Executive is accountable to Parliament for all its acts of commission and omission. The control which Parliament exercises over the Executive emanates from the principle of parliamentary supremacy as it represents the will of the people. As a corollary to this principles, the administration has to be responsive to the needs and aspirations of the people and where the administration is found wanting corrective measures have to be taken promptly. Hence Parliament as a watch-dog of the peoples' rights, through its various procedures and devices, not only elicits information on various public matters but also extracts from the Ministers promises or undertaking for action. Given the magnitude and complexity of governmental activity, the Legislature as a body cannot effectively scrutinise the fulfilment of the assurances given by the Ministers on the floor of the House. In fact it has neither the time for a thorough scrutiny of the varied and complex details of modern administration, nor because of its very size, is it suited for such a task. Thus the Committee of Parliament, with adequate powers to scrutinise the working of the various Departments of Government, have a distinct and useful role to play in enforcing executive accountability

to Parliament. The Committee on Government Assurances is one such Committee a unique Committee of its type, a 'wholly Indian invention' in the words of Morris Jones, with no parallel in any other country in the world having a parliamentary system of Government.

While replaying to the questions or participating in the debates on Bills, Resolutions, Motions, etc. Ministers often use expressions, like: 'The matter is under consideration'; 'I shall look into it'; 'I shall consider it'; 'Information is being collected and will be laid on the Table of the House'; 'I shall supply it to the Hon. Member', etc. etc. It was in 1949 that the Government at the Centre for the first time made arrangements to extract such assurances from the proceedings and to report to the House regarding action taken on them from time to time. But there was no machinery of the House to ascertain whether all the assurances given by the Ministers on the floor of the House had been extracted and fulfilled; and if so to what extent and in how much time. It was thus left to the individual member to watch the progress of implementation of assurances given by Ministers.

The first Speaker of Lok Sabha, Shri G.V. Mavalankar, thought of remedying the situation by setting up a standing Parliamentary Committee for a systematic follow-up of ministerial assurances. Thus the first Committee on Government Assurances was constituted by the Speaker in the Lok Sabha on 1, December, 1953.

In Rajya Sabha, the Committee on Government Assurances was constituted for the first time under Rule 212-A of the Rules of Procedure, on 1 July, 1972, following the amendment of the Rules of Procedure and Conduct of Business in the Rajya Sabha during the same year. The functions of this Committee are to scrutinise the assurances, promises, undertakings, etc. given by the Ministers from time to time on the floor of the House and to report on :

- (a) The extent to which such assurance, promises, undertakings, etc. have been implemented; and
- (b) When implemented whether such implementation has taken place within the minimum time necessary for the purpose. (Rule 212 A)

Thus, the main function of the Committee is to watch the implementation of the assurances given by the Ministers from time to time on the floor of the House and to ensure that all assurances are implemented as expeditiously as possible. From time to time, the Committee, in its various reports, has made important recommendations with a view to making the Committee effective in its working, ensuring speedy implementation of assurances and influencing Government policies in sub-serving public cause.

It hardly needs to be mentioned that, of late, some Parliamentary Committees have attained such importance and stature that through their recommendations they have often influenced the Government in changing or modifying its policies and programmes. Besides, the recommendations of these Committees with regard to matters that affect public interest are sometimes so widely publicised by the mass media that the Government finds it difficult to sidetrack such recommendations easily. The Committee on Government Assurances is one such Committee which was proved its utility not only for the members of the House but also for the general public whose problems are generally highlighted on the floor of the House. Here a reference to a few instances of scrutiny by the Committee may be made to show how it has succeeded in influencing government policies.

In reply to Unstarred question No. 1710, given on 7 August, 1983, in the Rajya Sabha regarding loss of 7 customs employees' lives in a boat tragedy near the Madras Harbour on 15 April, 1983, the then Minister of Finance had informed the House that the matter was under enquiry—the results of which were awaited. The Ministry had requested the Committee to drop the assurance which was not acceded to. As there was considerable delay, the Committee took the oral evidence of the Government representatives as well as of the widows of the three employees of the Customs Department at Madras who had lost their lives in the tragic incident. The Committee took serious note of the lack of initiative on the part of the Government and expressed its anguish about the inordinate delay of two years in arriving at a decision. The Committee's recommendation that the magisterial enquiry in the matter be expeditiously completed had its effect on the Government and as a result thereof, the then Minister of

Finance informed the Committee that the families of the deceased officers had been adequately compensated.

Four identical assurances were given in replies to Unstarred Question No. 772, on 29 July, 1986, Unstarred Question No. 12 on 4, November 1986, Starred Question No. 107 on 1 March, 1988 and Unstarred Question No. 172 on 23 February, 1989, regarding appointment of non-official Directors on the Boards of nationalised banks. The Committee met to the managements of the nationalised banks located all over the country, including the management of the State Bank of India, and found that the delay in filling up the posts of those Directors had, to a certain extent, affected the functioning of the nationalised banks. The Committee then took the oral evidence of the Finance Secretary. Notwithstanding the statements and the views of the Finance Secretary, the Committee felt that the efficiency of the banks was hampered because of the absence of the non-official Directors. The Committee, therefore, urged upon the Ministry of Finance to expedite the fulfilment of the assurances.

The presurances of the Committee in following up the issue and the public opinion generated through the media highlighting the Committee's recommendations forced the Government to take a decision in the matter and fill up the vacancies of non-official Directors on the Boards of the nationalised banks. Consequently, the Ministry of Finance (Department of Economic Affairs, banking division) fulfilled the assurances and the implementation statements as approved by the Minister of State in the Ministry of Finance, were laid on the Table of the House on 28 December, 1989.

Another instance of the effectiveness of the Committee in influencing Government Policy may also be cited. Employees' participation in the management of the central public sector enterprises formed the subject matter of two identical assurances in regard to Unstarred Question No. 344 on 10 November, 1987, and Starred Question No. 447 on 25 March, 1988. Both the assurances were fulfilled and the implementation statements were laid on the Table of the House on 27 April, 1988 and 3 November, 1988 respectively. On scrutiny, it was found that the assurances had not been fully and satisfactorily implemented. The Committee

undertook study, visits to several central public-sector undertakings located in different parts of the country and held discussions with their managements and also with the representatives of the concerned administrative ministries and the Ministry of Labour to get first-hand knowledge about the implementation of the scheme for Employees participation in management, as announced by the Government on 30 December, 1983. After having met the managements of the undertakings, the Committee took the oral evidence of the Secretary, Ministry of Labour, and made detailed observations/ recommendations.

In pursuance of the recommendations of the Committee, the Ministry of Labour informed it that they had decided to renew the approach on Labour participation in management. It was further stated that the scheme for worker's participation in management as notified in December, 1983 was being drastically revised and would be given statutory basis, and the Bill to that effect was being planned to be introduced in Parliament. Accordingly, "The Participation of Workers in Management Bill, 1990" was introduced in the Rajya Sabha on 30 May, 1990. It may thus be seen that the perseverance of the Committee yielded results.

In another instance, the CBI investigation into corruption charges against officials of nationalised banks formed the subject matter of an assurance given in reply to Unstarred Question No. 170 on 23 February, 1989. Though the assurance was fulfilled by the Government, the same was treated by the Committee as not fully and satisfactorily done. The Committee spent a great deal of time in consider the matter threadbare. After having heard the managements of 21 public sector banks, the senior officers of the Ministry of Finance, the RBI and the CBI, and after scrutinising voluminous documents and data, the Committee came to definite conclusion that the spectre of corruption, fraud and malpractices was looming large on the horizon of the banking industry. The mismanagement and fraud in the banks were much more than had been realised by the Ministry or the RBI. The dimensions of the problems proved to be larger than what it was thought to be. The number of frauds detected and reported might only be the tip of the ice-berg, the Committee observed in its Thirty-Eighth Report presented to the Rajya Sabha on 12 May, 1992. In this Report, the Committee made wide-ranging recommendations on

the subject, suggesting short-term and long-term reforms in the system to curb the menace of corruption in banks. It directed the Government to furnish to it 'Action Take Notes' on each of the observations/recommendations.

It is gratifying to note that there was immediate response from the Government. Shortly after the presentation of the Report, the Finance Minister had a meeting with the Chief Executives of public sector banks and financial institutions on 16 May, 1992 in which it was decided that each bank should undertake a thorough review of its systems and procedures so as to ensure that the type of irregularities and frauds that had come to notice did not recur. The need for working out an effective preventive vigilance system by RBI and the bank managements to avoid system failure was emphasised. The Ministry of Finance also informed the Committee that the Report was being examined in consultation with different authorities like the RBI, Central Vigilance Commission, CBI and Department of Personnel & Training. The Ministry of Home Affairs then informed the Committee that its recommendation for treating the diversion of stocks hypothecated to banks against credit facility as a criminal offence was being considered as part of the proposal for comprehensive amendments to the Indian Penal Code. Subsequently, another communication was received from the CBI informing that the recommendation of the Committee for increasing the cut-off figure from Rs. 1 lac to Rs. 10 lacs for referring cases to CBI, had been accepted unanimously. It was also informed that in pursuance of the recommendation of the Committee, the Government had decided to set up a separate wing in the CBI to deal with economic offences by banks, for completion of investigation within a reasonable time, and a formal proposal in that regard had been sent to the Government by the CBI. 'Action Taken Notes' on the remaining recommendations are awaited.

A perusal of the findings and recommendations of the Committee in this Report would reveal that they could not have been better-timed, coming as it were, close on the heels of the revelation by the Minister of Finance of the recent securities' scam. The course of events leading to the unearthing of the multi-crore scam, the appointment of the Joint Parliamentary Committee and starting disclosures made before the Committee, as reported in the

Press, all lend credence to the findings and recommendations of the Assurances Committee. The media has given wide publicity to the contents of the Report of the Assurances Committee which has acted as a catalyst in generating strong public opinion which may force the Government to accept the remaining recommendations of the Committee.

Be that as it may, the Committee since its inception has exercised considerable influence on the Executive. To substantiate this point some statistics may be cited. Between the years, 1983 and 1992 of Rajya Sabha, the number of assurances recorded was 13816, out of which 11871 assurances had been fulfilled, by the end of July, 1992, thus leaving a balance of 1945 assurances. So the overall percentage of implementation of assurances in the Rajya Sabha works out to 86%. Needless to say, these figures speak eloquently of the results achieved by the Committee.

No form of Government would be successful without scrutiny. The great Tamil poet Thiruvalluvar, who lived two thousand years ago, had rightly pointed out in his masterpiece 'Thirukkural', (the English rendering of which reads as under):

“The King who reigns without a counsellor to censor
would be ruined himself without any enemy.”

So scrutiny becomes vital for the successful functioning of the Government. The scrutiny by Parliament is not for the establishment of supremacy but for the enlargement of utility. As rightly stated by Macaulay, “The House of Commons is, in the language of Burke, a check not on the people, but for the people”. Similarly the function of the Assurances Committee, is follow-up action not against any Ministry, but for the Ministries.

PARLIAMENTARY SYSTEM VERSUS PRESIDENTIAL SYSTEM

K.K. Birla

Introduction

After India won Independence on 15 August, 1947, and the framers of the Indian Constitution began their work of writing the Constitution, they were beset with various problems.

Their principal task was to frame a Constitution for a country large in size and densely populated, its people speaking different languages and professing diverse religious faiths and cultures. It was essential to maintain unity in the midst of multiplicity. On the one hand, the founding fathers of the Constitution had to see that national interests were not sacrificed; on the other, they had to ensure that, regional aspirations were allowed to thrive. With this end in view, they had to strike a delicate balance between the constitutional enactments needed to safeguard these interests and those required to legitimise regional autonomy. To evolve the process it became necessary to devise an administrative set-up comprising a combination of territories belonging to the erstwhile provinces and contiguous princely states which had acceded to India after the lapse of paramountcy on the eve of Independence, so that the united and democratic India could emerge

and march towards the promised prosperity under the inspiration of the spirit of nationalism.

The major problem was of communal discord which had escalated during the last phase of the *Britishraj* and had defied all solutions, until it calamitously resulted in the partition of the country and eruption of violence on an unprecedented scale in the then Punjab. People were divided not only on communal lines but also on the basis of caste, religion and province. Petty rivalries and jealousies swayed many sections of the population.

The lessons of history, however, were not lost on the minds of the framers of the Indian constitution. They were aware of the danger to the security of the country from inimical foreign powers eager to occupy portions of Indian territory, if there was a weak central government and the people remained divided. Relations with Pakistan were strained from the very beginning of the formation of the two separate geo-political entities; Kashmir in particular was a source of worry. The achievement of Independence by India was the victory of lofty democratic principles and ideas. The founding fathers were guided by democratic principles but at the same time had to make provisions for a strong central government to ward off the centrifugal and divisive propensities which had been the sad experience of the country for the last several centuries.

Owing to our long association with Britain, the framers of the Indian Constitution were deeply influenced by the British parliamentary system which consequently served as a basic model for India's Constitution. The virtues of the Constitutions of other States were also incorporated. Though India resembles the USA in being a Republic and a federal, it has largely copied the British model for its Constitution even though there is no written Constitution in Britain. The Head of the Republic is the President but he cannot be compared with the American President. He holds a position more like that of the British monarch. He is a constitutional head. Under our system the framers of the Constitution wanted to make the Legislature supremely powerful. They vested the executive power of the Union only nominally in the President and provided for a Council of Minister with the Prime Minister as

its head to aid and advise him in the exercise of his functions; indeed, both in turn were made responsible to the Legislature.

Normally a Presidential form of government is suited to a federation and a parliamentary system to a unitary form of government. It is debatable whether the choice made by the framers of our Constitution was correct and in the best interests of the country. It may be of interest to note here that the question of making the executive responsible to the Legislature has always been the motivating force behind adopting the parliamentary system for the Indian Constitution. According to K.M. Munshi, one of the framers of our Constitution, most of the members of the Constituent Assembly looked up to the British model as the best. Hence, the Draft Constitution embodied a good part of the provisions of the Government of India Act, 1935— a borrowing which was stoutly defended by Dr. B.R. Ambedkar, the Chairman of the Drafting Committee.

The Parliamentary System

India choose parliamentary democracy, which envisages a representative government. Under this system, those who govern the State are the representatives of the people. They represent the supremacy of public opinion. Representative government exists in two major forms—Parliamentary and Presidential. The presidential form exists in the USA, France and most of the Latin American States, except Uruguay. The parliamentary form is followed in Britain, Canada, India, Australia, New Zealand and some countries of Europe.

In the parliamentary form, the supremacy of the Legislature *vis-a-vis* the Executive is maintained. The Parliament is the highest law-making body and oversees the performance of the Government. The Executive of the land is responsible to it. Under this system the Government continues in office as long as it enjoys the confidence of the Legislature. The fundamental principle here is responsibility to the Legislature which is implemented through debates, votes of confidence and financial control. The Government is responsible to the Parliament and enforces its decisions and policies through its various agencies. Legally the executive powers are enforced by the head of the State who may be

a nominated Governor General as in Canada or a hereditary monarch as in Britain or an elected President as in India. The President is the *de-jure* head of State. He is the symbol of the nation which he represents both inside and outside the country. His place in the administration is like that of a "ceremonial device or a seal by which the nation's decisions are made known". It has, however, been clearly defined in our Constitution that these powers of the President have to be exercised on the advice of a Council of Ministers responsible to the Legislature. The parliamentary government acts through a Cabinet, which is why it is also called a Cabinet Government.

Under this system, the leader of the majority party in the Legislature becomes the Prime Minister who selects other Ministers from his own party in the Legislature. If a vote of censure is adopted, the whole Cabinet has to resign *en bloc*. So in the Cabinet form of government the Prime Minister exercises real power in a homogeneous body. The principles of joint responsibility, secrecy and solidarity also operate here. Sometimes regional, racial and religious factors influence the formation of the Cabinet, as in Canada and India. In Australia the party caucus sometimes plays an important part in the formation of the Cabinet. Harmony between the Cabinet and the Legislature is maintained if the party in power has an absolute majority. By regular debates on various matters the Ministers can feel the pulse of the members of the Legislature and through them they come to gauge public opinion. They become aware of public criticism of their measures and can introduce relevant changes in time. Lord Bryce appreciates this system for its swiftness in decision-making and vigour in action because the Cabinet can speedily pass vitally needed legislation as a result of majority support. The Cabinet has to proceed with great caution in the implementation of its programmes because within the Legislature it has to face a volley of questions from the Opposition on the policies initiated and outside the Legislature, it has to come up to the expectations of the people. If it fails to do so people lose confidence in it. That is why mature judgement is necessary in selecting Ministers who can steer the ship of State through the rough and tumble of parliamentary palaver, or perhaps some crisis.

The Opposition too is expected to adopt a constructive approach in the Legislature.

One advantage of this system is that the Cabinet sits in the Legislature and thus has an opportunity to explain in detail its actions, performance and policies. It has to behave in a responsible manner because the Cabinet continues in office so long as it enjoys the confidence of the Legislature. The Cabinet system is flexible, adaptable to circumstances, and swift in action.

The excellence of the Cabinet system lies in the harmonious collaboration between the executive and the legislative organs. The essential union of the executive and legislative functions of the Government is dependent on the constitutional principle that the Legislature which represents the people is supreme.

The term 'parliamentary system of government' applies only to those political systems which are not only parliamentary in form but also based on free and fair elections. This excludes one-party dictatorships functioning within a formal parliamentary structure.

The parliamentary system runs more smoothly and with greater chance of success when there are two political parties. When there are more than two political parties, the parliamentary system tends to wobble. The cabinet type of government tends to get overworked when there are more than two, and tends also to be characterised by a propensity to instability. If the Opposition does not behave in a responsible manner, there cannot be swiftness and promptness in decisions by the Cabinet. In spite of this possibility of instability, the framers of the Indian Constitution opted for the parliamentary form of the British model not only because Indians were familiar with the model, but primarily because, as Dr. Ambedkar said, this was a system most suited to India. A cabinet government's responsibility to the Legislature could be assessed both daily and periodically — daily by members of the Parliament through questions, adjournment motions, debates and so on, and periodically through elections. The daily assessment of responsibility being preferable and more effective for a country like India, the founding fathers opted for the British type of cabinet government. In this context it may be interesting to note that in reply to the suggestion of some members of the

Constituent Assembly for an elected ministry or for an American type system. Pandit Jawaharlal Nehru stated that they had been progressing with the building up of a Constitution in the ministerial sense on which they could not renege.

The Presidential System

The best form of presidential government is found in the United States. The USA won its independence in 1776. When the American leaders started writing their Constitution the first question that cropped up was what type of Government they would like to adopt. The majority of the people in America then were of British stock. And yet they rejected the British form of Cabinet Government and choose the Presidential form of Government. Their fear was that in the British form too much time was wasted in arguments and debates and decision making was a time consuming affair. With the aim of building the United States in the quickest possible time they decided that a presidential form of Government would suit them best to arrive at speedy decisions on matters which called for urgent attention.

Under the American system it is not the Legislature but the written Constitution of the State that is supreme. The Constitution specifically mentions the functions of the different organs of the Government. The Executive is independent of the Legislature with regard to its tenure, and it is not responsible to the Legislature. There is provision for Judicial Review in the Constitution and the Judiciary can declare any law passed by the Legislature as null and void if it is found violative of the Constitution. The President may act on his own or through his Secretaries (Ministers) who do not belong to the Legislature. In theory, their acts are his acts. So after the elections, the Chief Executive is responsible, in a way, to the Constitution and through it to the people. Even if inefficiency creeps into the Presidential system, normally no corrective measures can be adopted until the expiry of the President's term. In practice in the USA the President very much depends on the Congress for the effective implementation of his policies. Side by side with the theory of separation of powers, the principle of checks and balances operates. Major appointments made by the President have to be confirmed by the Senate which also ratifies all Treaties concluded by him. The Congress

appropriates funds which are necessary for different government agencies. The President has to look forward to the co-operation of the Congress for the success of his administration. The President sends messages and recommendations to the Congress and also exercises the right of veto.

In the presidential system there is a written constitution. Under this, elections are held after fixed periods, and the party system is not as explicit as in the Parliamentary form. There is a fixed tenure both for the Executive and the Legislature. The Legislature cannot remove the Executive, nor the Executive the Legislature. Thus power is concentrated in the hands of the President. He is the real Executive and acts as a cementing factor for the nation. He is also the *de jure* Chief of State. He is not chosen by the Legislature nor is he responsible to it. He is elected by the people through an electoral college.

Merits and Demerits of Presidential System

The Presidential system has distinct merits and demerits. For instance, the Executive is comparatively independent and need not bother much about the immediate reaction of the people to his policies and actions so long as he is confident that in the long run such decision will find favour with the public. In the American system there is greater continuity and stability as the Ministers (Secretaries) cannot be removed by an adverse vote of the Legislature. The President is not merely the leader of his party but he is also the leader of his nation. He is the first citizen of the country.

There is a built-in potential for greater efficiency in this system because it is based on the principle of division of labour and non-intervention by the Congress in the President's work. There is unified control over the whole administrative machinery and there is no loss of time in implementing decisions taken by the President. There is no scope for destructive criticism of the President's actions because the Executive does not sit in the Legislature. This type of Government is most suited for emergencies and perhaps for developing countries. The President can take early decisions during a crisis or for the prompt implementation of economic policies for the betterment of citizens. He can direct the machinery of the State with style, energy, efficiency and vigour. In

the Parliamentary form this is difficult. Even Prime Minister Winston Churchill, though he had the entire nation behind him, did not enjoy as much power as President Roosevelt did during the Second World War. The U.S. President personally pledged to realise the objectives of the Atlantic Charter while in the U.K. this could be done only collectively by the War Cabinet. The President becomes the supreme authority in times of crisis. He makes the top appointments to all important offices. This system is excellently suited to countries spread over large areas and inhabited by a large variety of communities with divergent interests.

The American President enjoys a number of advantages which makes him more powerful than the British Prime Minister. The President's fixed tenure of office enables him to hold office till the expiry of his term. This is not the case with the British Prime Minister who has to seek a fresh mandate when he loses the confidence of the House of Commons.

In initiating policies and legislation a democratically elected Prime Minister has to take into consideration the views of the other members of his Cabinet since the Cabinet functions on the principle of joint responsibility. This is not necessary for a President. An American President thus combines the dignity and majesty of the British Crown with the power and influence of the British Prime Minister. It is no wonder therefore that "the President is the nearest and dearest substitute for a royal ideal" to the American. And yet, sometimes, the presidential power often proves to be quite illusory when subjected, for instance, to the process of checks and balances of the Congress, the Senate and the Judiciary, all enshrined in the Constitution of America.

Varying images of the U.S. President

Some U.S. Presidents may not have succeeded in living up to the adulatory expectations that Americans have of the high office. There are apprehensions too about presidential abuse of the vast powers vested in the position. The great democratic traditions of the United States have not been able to effact the spectre of an 'imperial presidency' which haunts American minds.

In the presidential form of government, much depends upon the qualities of head and heart of the President. He can take the

nation to great heights of glory and fame. He can also bring it down to the nadir of disgrace if he fails to take correct decisions and timely action. In the parliamentary system responsibility to the people is better secured than in the presidential system because the Ministry cannot blame the Parliament for its acts of omission and commission. If it does not command the confidence of the Legislature, Parliament has either to be dissolved or the Ministry has to resign (in order to make way for the Opposition which then shoulders the responsibilities of administration if it can command a majority) or call for fresh elections. In the presidential system the Legislature can create a deadlock in the government in two ways:

- (i) If it does not pass much needed laws, as requested by the President, and
- (ii) If it withholds money which the President demands for his Departments.

The administration can also be paralysed if there is conflict between the Executive and the Legislature and the President does not belong to the party which forms the majority in the House of Representatives.

It is claimed that the presidential system has greater stability than the cabinet system because both the Executive and the Legislature enjoy fixed tenures. In Parliamentary system also the Prime Minister can ensure the same stability if he has a comfortable parliamentary majority. Pandit Jawaharlal Nehru became a national hero much before he became the Prime Minister of the country owing to his role next only to Mahatma Gandhi, in the struggle for the attainment of Independence.

The presidential system provides opportunity to shift responsibility for unpopular public policy. Both the President and the Legislature can blame each other. It is not correct to say that the parliamentary system is always more responsive to public opinion than the presidential system because in the former once a political party gets the majority and forms the Government it can easily pass or overlook the opinions of the people. In the presidential system this cannot be done because the incumbent of the High Office will not normally ignore public opinion which is re-

flected through the print and electronic media. No President can afford to disregard public opinion. However, the parliamentary system is more flexible than the presidential. Under the parliamentary system, if a person is unable to lead the nation as the Prime Minister, he can be replaced by another leader from within the ruling party itself as, in Britain. Mr. Neville Chamberlain was replaced by Mr. Winston Churchill in 1940, or, more recently, Mrs. Margaret Thatcher by Mr. John Major.

The Parliamentary and the Presidential Systems Compared

The practice of comparing these two very dynamic political systems has assumed great importance in recent times. Every system has merits and demerits. A political system to become acceptable to the people of a country must be able to deliver the goods to the nation and provide an efficient administrative machinery.

The presidential form of government of the American type is based on the principle of separation of powers and the theory of checks and balances. In the exercise of their powers the three organs—the Executive, the Legislature and the Judiciary—being independent of one another, exercise checks and balances on one another so that no single organ usurps and monopolises power to the detriment of the sovereignty of the people and maintenance of balance in administration. Checks are placed on the powers of the President by the Congress on the one hand and the Supreme Court on the other. In making appointments to important federal offices and guiding the foreign policy the President has to seek the approval of the Senate. Thus the Executive and the Legislature are mutually balanced against each other. The authority of the Congress is limited by the veto powers of the President which in turn are limited by the powers of the Senate. The doctrine of judicial supremacy is an essential feature of the American Constitution, and only the Supreme Court can interpret the Constitution. Thus the President cannot be held responsible for his way of conducting the affairs of the country nor can he normally be removed by the Congress. The Congress therefore is a mere Legislature and an institution for keeping checks. It does not function like a Parliament as in the parliamentary system but merely as a forum for discussion on important national issues. Further, its action can

be paralysed if the two Chambers do not see eye to eye with each other. The Supreme Court puts an effective check on the President and the Congress, and in turn it has to depend upon the President to effectively execute its decisions. A crisis in the administration can result if the President belongs to one party and the Congress is controlled by the other, though members of the Congress often take an independent stand on matters and vote according to their conscience.

Accountability of the President/Executive

The notion that the presidential form of government fails to ensure the accountability of the Executive is at best only a half truth. The idea is based on a purely juristic interpretation of the American Constitution for it does not take into account all aspects of the working of the presidential form in actual practice. The Congress appoints numerous committees which scrutinise and at times even restrain the functioning of the different administrative departments of the Executive. The American Constitution authorises either one or both Houses severally or jointly to share, scrutinise or check almost every aspect of Executive powers and actions.

The President cannot have his own way in the conduct of the country's defence policy because fixing force levels, making funds available, and exercising the right to declare war are exclusively Congressional prerogatives. Besides, appointments of the President's nominees to high federal posts, including the Judiciary, need the approval of the Senate which, however, is quite frequently denied. Conduct of foreign policy and diplomacy by the President and the Secretary of State is to be carried out under the guidance of the Senate to which is reserved the right to give "advice and consent on treaties". Similarly the President does not enjoy unfettered independence in the conduct of the administration which is severely curtailed by making availability of funds, sanctioning of authority and departmental structure, subject to specific legislation. Either House of the Congress may pass resolutions requesting the President to take certain steps or to censure others already taken. However, the President need not be bound by them beyond showing them some deference because following a collision course with the Congress may lead to inordi-

nate delay in receiving much needed money grants and approval for federal appointments and treaties. Thus the powers of the Congress guaranteed by the Constitution can prove adequately effective in checking the President if he proves to be capricious or intractable in governing the country.

The parliamentary system is based on altogether different premises. The three branches of Government lack the equality of status which they enjoy in the presidential system. The Legislature is supreme and the Executive is not equal to it. The Judiciary's function is to uphold the sanctity of the Constitution and to interpret it in letter and spirit. The Parliament is the sovereign body and the Executive has to implement its decision. The Parliament plays an important role in keeping the administration in check as the Cabinet is accountable to it for all its actions. If the Cabinet does not enjoy the confidence of Parliament, it has to resign and a fresh election has to be held.

In the parliamentary system responsibility can be fixed with certainty. The Cabinet in Britain is responsible to the House of Commons for all its policies and actions. Every action of the Cabinet may be questioned, approved or disapproved. Hence responsibility can easily be fixed. The Cabinet can be blamed for any failure, crisis or problem. In the event of disapproval of its acts and policies, the Government calls for general elections and faces the electorate for a fresh vote of confidence, or lack of it. In the presidential form the nation does not actually know where to fix the responsibility and whom to blame. In the parliamentary system, however, if the Prime Minister is following an indefensibly wrong policy he could be replaced by the Opposition in the event of a revolt in the ruling party.

In the presidential form the role played by the Supreme court is vital. It is not only performs its judicial functions but also gets involved in the political life of the nation. It has to take a decision on the constitutionality of the acts of the Executive and the Legislature. In the parliamentary system judicial review of the US variety simply does not exist. India, however, is an exception. It has of course copied the US Constitution in this practice.

The framers of the American Constitution were quite conscious of the fact that the government could not be organised in

three water-tight compartments because then it would simply not work. That is why they incorporated in the Constitution the provision of checks and balances to maintain effective inter-connection between them. The President was given a suspensive veto on the Legislature. The Supreme court had to function as the watch-dog of the Constitution to see if the Legislature and the Executive overstep the limits prescribed for them by the Constitution. The working of the Party System also saved it from serious crisis. The framers of the Constitution might have presupposed a basic instinct for co-operation among the three branches of the Government.

Suitability of the Parliamentary or Presidential form of Government in the Indian Context

The framers of the Indian Constitution choose the Parliamentary form of Government primarily for two reasons:

- (i) We were used to the Parliamentary form of Government. Nehru said : "We choose it because we think it is in keeping with our old traditions. We choose it because we approve of its functioning in other countries more specially in the United Kingdom." Nehru felt that India was used to the parliamentary form of Government and that is why it was best for it.
- (ii) It was preferred because the presidential form created differences and deadlocks between the Executive and the Legislature. Alladi Krishnaswami Aiyar said : "The object of the present constitutional structure is to prevent a conflict between the Legislature and Executive and to promote harmony between the different parts of the Governmental system."

Till 1967, in India, there was no objection to having little debate regarding the suitability of the parliamentary form of Government. In 1967, when coalition governments came into being in the Indian States, a spate of defections and weak governments started and political instability reared its head in the country. Since then there is a continuing national debate questioning the suitability of the parliamentary form for the Indian Government.

Political scientists and parliamentarians began to discuss the merits of the presidential system, which are :

- (i) It provides a powerful and stable executive as both the Executive and the Legislature enjoy fixed tenure of office;
- (ii) The Legislature can neither harass nor dismiss the Executive;
- (iii) There is separation of powers; and
- (iv) There is no problem of defections in the presidential system.

In India we need a strong and effective Executive at the Centre. However, it is debatable whether the presidential system of government will suit the needs of our country. It is said that the parliamentary system has to be retained because there are so many regional diversities in India. The supporters of the parliamentary system feel that it is best suited for ensuring the unity and territorial integrity of the country. It has also been found to be more responsive to the wishess of the people.

During recent times, unfortunately, the standard of performance of the members of Parliament and of the conduct of business in both the Houses has come in for severe criticism. The falling standard of parliamentary proceedings has created a bad impression on the public mind about the members. The public feels that opportunity is taken by the members during Zero Hour to ventilate their spleen against each other rather than apply their minds to serve the country. It is for us parliamentarians to see that the dignity and prestige of Parliament as well as of its members are always maintained. In spite of the drawbacks of the parliamentary system this form of government is best suited to India but it should be the aim of all the members to see that the true worth and excellence of the parliamentary form of democracy are never sullied.

In any parliamentary form of government the Opposition has a very important role to play. The Opposition has to keep a proper, dignified check over the ruling party so that it does not take unpopular decisions or mis-use the power entrusted to it. It

is not this reason that the Opposition has a constructive and useful role chalked out for it. Its criticism has to be objective so that it can act as a check on the ruling party and prevent it from taking decisions which, in the long run, may prove harmful for the country. That is why the Opposition should not always be obsessed with manoeuvres to dethrone the ruling party but should endeavour to keep it on the right track and under proper restraint.

The parliamentary model of the British type presupposes a basic cultural homogeneity among the citizens who exercise the franchise to choose their representatives. This kind of homogeneity does not unfortunately exist in India despite our claims of cultural unity in the midst of diversity. The Civil Services, Universities and some business corporations have a basic cultural homogeneity among them to function well as tightly knit institutions according to the rules governing their management; but a political party with highly individualistic members brought together only by ideological unity may not have the homogeneity required for the Cabinet to function like a unit with a singleness of purpose. Experience in India shows that whenever a Cabinet has functioned smoothly, it has been due to the exceptional leadership, qualities of the Prime Minister.

Having praised the parliamentary form of Government as being the best for the country, let me make some comments on the presidential form of Government. If India switches over to the presidential form of Government, much loss of time in the Parliament can be avoided and the time thus saved can be devoted to constructive and purposeful work. I have said something earlier about zero hour, but I would like to add a little more. Zero hour is meant to draw the attention of Parliament to events of national importance which suddenly crop up and pose problems of grave consequence to the country. Instead zero hour has become a kind of free for all. It no longer remains a democratic tool for government to one's thoughts on important national problems.

Whether India should have the parliamentary system or the presidential form of Government really depends upon how we, the members, conduct ourselves in Parliament. Instead of following narrow politics, we should discuss and formulate plans and

programmes for achieving the greatest good of the greatest number and not fritter away our energy cavilling at trifling matters. Parliament today is not what Parliament was during the days of Pandit Jawaharlal Nehru. It used to be said that the standard of debates in the Rajya Sabha was higher than the standard set by the Senate of the United States. This now is a story of the past. A parliamentary form of Government is still preferable to the Presidential, but its success would depend upon the resolute determination of the members of Parliament to uphold the dignity and prestige of both the Houses.

UNION-STATE RELATIONS — NEED FOR REMOVAL OF DISTORTIONS

P. Upendra

The question of Union-State relations in India has been under continuous debate for several years now. In various fora, jurists, economists, administrators, financial experts, lawyers and legislators have called for the correction of various distortions and irritants that have crept into the working of our Constitution. Following the appointment of the Sarkaria Commission in June, 1983, a number of national seminars and political conclaves have been held in different parts of the country, wherein the same complaint was voiced—that the Centre has become, was become too powerful and there was a trend towards over centralisation distorting in the process, the original constitutional concept of Union-State relations to the utter disadvantage of the States. There have been demands and that this trend should be reversed and more powers and resources should be given to the States to fulfil their commitments to the people.

The State Governments have themselves started demanding more powers and several regional forces have sprung up with the demand for more autonomy for the States. The Anandpur

Sahib Resolution of the Akali Dal was the most. There may be differences of opinion about the extent to which States should be given more autonomy or powers, but there is a general realisation on the part of politicians, as well as constitutional experts and the people in general that unless we rectify these distortions in the functioning of our Constitution as soon as possible, we may have to face the same situation in this country as the Soviet Union, Yugoslavia or Czechoslovakia and some other countries have faced or are facing.

Unitary or Federal ?

The question whether India is a unitary State or a Federal State is often raised in discussions on the Constitution, especially on the Union-State relations. Significantly, the same discussion took place in the Constituent Assembly also and it is worth noting what Dr.B.R.Ambedkar, one of the founding fathers of the Indian Constitution, said while moving the draft constitution to be taken into consideration: The Draft Constitution is a federal Constitution in as much as it establishes what may be called a dual polity. This dual polity in the proposed Constitution will consist of the Union at the Centre and the States at the periphery, each endowed with sovereign powers to be exercised in the field assigned to them, respectively, by the Constitution.

It is thus clear that our Constitution has created not a 'federation of States' but 'the indestructible Union of States'. The States were invested, quasi-federally, with autonomy within their defined domain, that cannot be encroached upon, except with their consent under Article 252. The respective jurisdiction and authority of the Union and the States are enumerated in two exhaustive lists, I and II—the Union List and the State List—under Article 246, the residuary powers reserved for the Union under Article 248 and entry 97 of the Union List under the Seventh schedule. It had also created a wide area of concurrent jurisdiction in List III which can be enlarged by the transfer of subjects from the State List to the Concurrent List under Article 252, with the Union Legislation thereon taking precedence over State Legislation.

Trend towards Over-Centralisation

But, unfortunately, contrary to the expressed wishes of the framers of our Constitution, India has in the last four and a half decades, become a quasi-federal polity, with strong unitary overtones. That is the major distortion in the working of our Constitution.

Very often, this trend towards over-centralisation and the accumulation of powers by the Centre has been justified on the grounds that India, with its complexities of varied ethnic and linguistic components and with the presence of several divisive forces, needs a strong Centre. Unfortunately, the argument in favour of a strong Centre is often juxtaposed against strong States. It is often forgotten that there cannot be a strong union without strong States, just as there cannot be a strong body without strong limbs. Besides, Part XI of the Constitution details the relations between the Union (the word 'Centre' for the 'Union' is nowhere used) and the States. The relations are regulated by a number of articles in the constitution that confer effective Union control over the States, including the power to issue directions for compliance by the States and the power to take over State Governments, if need be. These are enough to preserve the country's unity and integrity. The Constitution has thus created a strong Union, equipped with ample powers and functions which do not give the constituent parts 'the freedom to get out'.

In a federal or quasi-federal polity like India, sharing of powers and resources between the Union and the States on a equitable basis is essential but the trend has been, in the past, towards over-centralisation and usurpation of powers by the Centre. Whereas articles 162, 201, 248, 249, 250, 251, 252, 254, 256, 257, 258A, 286, 352, 356, 365 and 370 were specially designed to preserve the unity and integrity of the nation in specific contingent situations, in actual practice, ascendancy of the Union over the States goes far beyond the original design of the Constitution of the Centre. This has been aided by the following factors:

- (a) single party dominance at the Centre and in the States;
- (b) the Centre's power of the purse;

- (c) centralised planning and licensing;
- (d) the use of central bureaucracy and the All India Services; and
- (e) the 'misuse' of the office of Governor.

A look at Lists II and III, as they were in 1950 and as they are today, reveals erosion of powers of the States. The common complaint by the States is that their authority and autonomy have been eroded by a grasping Centre and the States have been reduced to a position of dependence and mendicancy because of which their growth and development are hamstrung and they are not able to fulfil their commitments to the people who elected them.

'Misuse' of the Office of the Governor and article 356

Another major distortion is in the use or misuse of the office of the Governor and article 356. The Constitution never envisaged that the Governor would be 'the agent of the Centre'. Even Dr. Ambedkar was clear in this respect. On 26 November, 1970, the then President Shri V.V.Giri, appointed a Committee of Governors, consisting of Sarwa Shri Bhagwan Sahay, B.Gopala Reddy, V. Viswanthan, S.S.Dhawan and Ali Yavar Jung to study and formulate norms and conventions governing the role of Governors under the Constitution. The Committee submitted its report in 1971. In its report, the Committee pointed out:

Under the Constitution, just as the State is a unity of the federation and exercises its executive powers and functions through a Council of Ministers responsible to the Legislature and none else, the Governor, as the head of the State, has his functions laid down in the Constitution itself, and is in no sense an agent of the President. In addition, his oath of office under article 159 requires him to 'preserve, protect and defend the Constitution and the law'. Even in a situation where the Government of a State is taken over by the President under Article 356, the Governor does not, by virtue of anything contained in the Constitution, become an agent of the president.

But have we adhered to this interpretation of the office of the Governor? Unfortunately, the office of the Governor has on several occasions been misused and he has been treated as an agent of the Union Government. We have seen that in various States, elected State Governments are dismissed on flimsy grounds. For example north Eastern States have faced crisis on this account. The Sarkaria Commission made specific recommendations regarding the qualifications for appointment of Governors and their powers.

Similarly, the emergency powers under article 356 have been so widely 'misused' that it has been applied on more than 90 occasions during the last four and a half decades. The Sarkaria Commission listed 11 categories of cases where imposition of president's Rule would be manifestly improper. The Commission recommended that the Governor's report on the question of constitutional breakdown should be a speaking document 'containing a precise and clear statement of all material facts and grounds on the basis of which the President may satisfy himself as to the existence or otherwise of the situation contemplated in article 356'. Such a statement must be made an integral part of the proclamation under article 356 (1). Parliamentary and judicial review must be allowed to play their part whenever it is decided to impose President's Rule.

In spite of the passage of five years, the recommendations of the Sarkaria Commission have not been implemented. There is a feeling that the Sarkaria Commission has not gone far enough to rectify the distortions which have crept into the working of our Constitution in relation to Union-State Relations, and that its report tilts in favour of a strong Centre. But even the modest recommendations of the Commission seem to have been shelved.

All India Services

Even in regard to the All India Services, there has been some distortion because disciplinary powers have been kept with the Centre rather than with the State Governments under whom these officers work. Many times, it has been found that those who did not carry out the orders of the State Governments or have been punished with suspension or other disciplinary actions, have been accommodated by an obliging Centre or an assurance to

that effect has been given by the Centre whenever the State Governments wanted to take disciplinary action. While it is necessary to protect the officers of All India Services from any arbitrary actions by the State Governments, they should not be allowed to flout the orders of the State Governments hoping that benovelent Centre would come to their rescue.

Inter State Council

Article 263 of the Constitution provided for an Inter-State Council to function as a balancing force, as a link between the Union and the States. After four and a half decades, it was ultimately constituted in 1990 but it has yet to start functioning. The Inter-State Council can be an effective instrument for promoting harmonious relations between the Union and the States as well as to resolve disputes between one State and another.

Independence of Judiciary

In the judicial sphere also, there have seen distortions. The system of transfer of judges, instances of supersession of senior judges and introduction of the concept of 'committed judges' have to some extent eroded the independence of judiciary. There should be a judicial commission to deal with matters relating to appointment, promotion and transfer of judges.

Financial Powers

In the financial sphere the Centre has all the elastic and buoyant sources of tax revenue and non-expandable resources have been left to the States. Then, in regard to the assistance to the States, the situation is quite alarming. For example the 7th Plan gave only Rs.29,737 crores to the States as assistance to State plans out of the total resources of Rs.1,29,039 crores.

The States have been objecting to the practices adopted by the Centre through which they are deprived of additional shareable resources;

- (a) non-inclusion of Corporation Tax in the divisible pool even though this formed part of the Income Tax till

1959. In regard to this, the recommendations of the 8th Finance Commission have been ignored;

- (b) denial of share, to States, in additional excise duties on articles of mass consumption like textiles, tobacco and sugar;
- (c) increase in administered prices of certain public sector products like coal, iron and steel, aluminium, petroleum products et.—a practice not favoured by the 8th Finance Commission.

In the case of share of royalty to the States on minerals, petroleum and natural gas, the States are denied their legitimate dues. Even in the case of natural calamities, States have to beg the Centre repeatedly for assistance. The effort has been to make the States dependent on the Centre for their finances. But the country's unity and integrity cannot be upheld by using the Union's power of purse as leverage.

Let us consider the question of industrial licensing. Of course, after recent liberalisation, the situation has changed to a great extent but if one sees the Industries Development and Regulation Act of 1951 and the industries included in that list later, one can see to what extent the erosion has taken place in the States' powers and how the Centre has usurped more and more powers. Before liberalisation, 93% of industries in List-III, including some trivial ones, were being controlled by the Centre even though industrial licensing as a state subject under List II.

The Planning Commission

The Planning Commission may be said to be a non-constitutional body which was originally set up with an advisory role in plan formulation. But, over the years, it has increased the sweep of its jurisdiction and the Commission now holds enormous powers, dealing with about 70% of the resources of the Union. All State Plans and powers under the State List have come within its orbit. It has been imposing on the States its own order of plan priorities and schemes through the questionable use of Article 282 to channel the bulk of central assistance by way of discretionary grants. States are required to come to the Planning Com-

mission the sanction of even small schemes and several projects and proposals have been lying with the Planning Commission for decades without being cleared. The National Development Council should be the real authority to decide the share of resources between the Union and the States, and the Planning Commission should become a unit of the National Development Council, charged only with coordination of State Plans, research, expert advice and guidance on national policies. Its authority should be confined to areas that need a national approach like communications, space programme, sea-bed resources, environment, ecology and domestic foreign deciding investments priorities.

Finance Commission

The Finance Commission was set up under article 280 as an agency for rectifying imbalances in the distribution of revenues and grants to deficit States. The successive Finance Commissions, which have shown sensitivity to State needs, have gradually broadened the scope for transfer of central resources for State development plans. The statutory share of the States has been raised over the years from 1/6th of the Central Tax Revenues in the divisible pool to the present level of nearly 1/3rd or 30%. But the remaining 70% is left with the Planning Commission. It is the emergence of the latter, with wide-ranging discretionary grant-making powers, that has dwarfed the successive Finance Commissions. But, the Finance Commission's scope and usefulness should be enlarged and it should be made responsible for all assistance under article 282 to the States, including grants and loans. It should be made a permanent body, as in Australia, where the Finance Commission keeps allocation of revenues under constant review and attends to State needs and grievances before these become irritants or assume serious proportions.

The Centre is at liberty to resort to deficit financing by 'created money'. Besides, it has the benefit of non-tax sources like bank loans, foreign loans, market borrowings, resources of financial institutions like IDBI, LIC, UTI, P.F. Contributions, National Savings. Etc. But the states are denied the facility of over-drafts. Whereas the Centre accuses the States of financial mis-management, there is no fiscal discipline at the Centre.

Delay in Clearance of Projects

In regard to clearance of projects submitted by the States, the situation is alarming, with proposals and projects awaiting clearance by the Centre for decades. Bureaucratic delays, multiplicity of authorities and red-tape, as well as political push and pull, lead to non-clearance of projects for years together. Ministers and officials from the states are obliged to make repeated and costly trips to Delhi on this account. Time consuming procedures often lead to cost escalation. The concept of decentralisation itself stands defeated. Besides, a large number of centrally-sponsored schemes have been introduced in the recent past. If the Union Government wants to help the States or the poor people, the best course would have been to allot the required money to the States and ask them to implement the schemes, following the guidelines given by the Centre.

Powers to Panchayat Raj Institutions

We must Consider the powers to Panchayati Raj institutions. Panchayat Raj has been included in the State List, but efforts are being made to impose a uniform system of Panchayat Raj on various States of the country. Efforts are also being made to introduce a third tier of administration which was never envisaged in the Constitution. If the Centre wants to ensure effective functioning of the Panchayati Raj institutions, only three aspects are required to be considered and amendments made in the Constitution :

- (a) regular elections every 5 years.
- (b) evolution of financial powers from the States to the local bodies by constituting state-level Finance Commissions; and
- (c) safeguards against any arbitrary supersession of Panchayat Raj institutions.

There have also been serious complaints regarding the abnormal delay in giving approval to various Bills passed by State legislatures. There are instances when Bills were kept pending with the Union Home Ministry for years before the President's assent has been given. In the process, the sovereignty of the State

Legislatures has been eroded.

A warning for the Future

The demand for more powers and autonomy to the States should not be misconstrued as a demand for separation or secession, as the protagonists of a unitary State tend to do. It is difficult to administer a vast country like India with all the powers concentrated in Delhi. Decentralisation is the need of the hour and there should be a realisation that the same voters who elect the Union Government also install the State Governments and their verdict is to be respected. Unless this legislation comes soon and the distortions are corrected without further delay, thus restoring harmonious relations between the Union and the States, India will face tremendous problems in the years to come and the divisive forces will gain momentum. The answer to such forces is not over-centralisation or usurpation of more powers by the Union but more decentralisation and more autonomy.

The time has come for a thorough review of the functioning of our Constitution in all its aspects. The Parliament should constitute a Constitutional Committee to go into this question and make suitable recommendations. The experience of countries, which have disintegrated in the recent past, mostly due to over-centralisation of power, should be an eye-opener to the people of India. A strong Centre need not be the anti-thesis of strong self-reliant and prosperous States. Only the restoration of the delicate balance in the relationship between the two can guarantee the unity and integrity of the country.

PARLIAMENT'S ROLE IN EFFECTING SOCIAL CHANGE

Rabi Ray

Social change is a subjective term. It may mean changes which are regressive in nature or changes involving the progressive march of society, polity and economy towards new levels of excellence and higher forms of attainment. It may also be an admixture of both regressive and progressive characteristics. A nation does not experience unilinear progress from the primitive through feudal to the modern phase or from under development to development. But the predominant thrust or the fundamental urge of the nation is to move towards change and betterment.

Social change generated by the dynamics of a society propelled and is to a large extent sustained by the institutions that are created to subserve the nation. Parliament is one such institution that are created to subserve the nation. Parliament is due such institution. Parliament being the highest forum of democracy representing the will of the nation, provides the necessary infrastructure for social change and also the impetus to maintain its momentum. As a mirror of the urges and aspirations of the teeming millions parliament is empowered with legislative and

constitutional powers to ensure to the citizens social, political and economic justice.

The Preamble to the constitution, Fundamental Rights and the Directive Principles of State Policy aim to create a society wherein freedom and justice can be realised by every individual, irrespective of his religion, race, caste, sex or place of birth. The goals of the Constitution are to be translated into reality by legislative measures.

These measures must aim for the attainment of recognise not only political democracy but also its social and economic aspects. For the supreme worth of an individual cannot be nurtured only by the liberties such as freedom of speech, assembly and association; it has also to be supported by concrete legislative measures that assure the right to education, economic security and social equality.

Article 38 of the Constitution directs that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of national life.

Parliament is a dynamic institution whose purpose is to secure the lofty objectives enshrined in the above article. This highest forum of democracy has once the years legislated on a large number of social and economic issues with far reaching consequences. For example the enactment of the Hindu personal laws, bank nationalisation, abolition of privy purses, abolition of private property as a fundamental right, etc. were legislations which augured well for the nation.

These created juridical conditions in society for an egalitarian ethos. The intention was to make laws which would not only initiate social change but also go hand in hand with social order. If law and social change run in contrary directions the result will be violence and anarchy. Therefore, the tempo of the times demand that the deep seated aspirations of the people must be reflected in the law of the land. This will facilitate peaceful change through the instrumentality of law.

In the Indian context the law making body two, the Parliament and Parliamentary institutions must be in touch with the vibrant changes taking place in society. If law does not reflect the social opinion it will operate against the will of the people. Therefore, the Parliament has to integrate itself with the mass movements and intellectual currents existing in the body polity. This will lead to effective social change.

More law making will not educate the public to accept social change. The world view of the public and their pro-change instincts have to be whetted by a powerful socio-political movement based on the law of the land. This will not only help the people to prepare themselves for the ensuing legislative measures for social change but also act as a feedback for further parliamentary initiative.

This calls for responsible action by the peoples representatives. Political activity must go beyond power-seeking members adorning the seats of legislatures have to have the passion for social justice and the outlook of national perspective which would reflect the hopes, aspirations, anxieties and frustrations of the people. To fulfil the cherished goals of their constituents they have to strive incessantly for laws that spell a humanistic order.

The mobilisation of people and their co-operation is the *sine qua non* of success. Through *Satyagraha* and civil disobedience movement the participation of the people in the social movements must be sought. Resistance to injustice or the wrong policies of the Government must be offered in a civil way.

This is the legacy of Gandhiji. For he gave to the people the power of *Styagraha* or truth-force. His credo was the involvement of masses, irrespective of their religious affiliations for a struggle for egalitarian social order.

In the present context when we are pitted against forces of centralisation and consumerist culture our endeavour must be directed towards creating a secular ambience and formulating laws that stands for distributive justice.

Processes of centralisation and rampant consumerism are twin threats to national integration.

While centralisation is antithetical to democratisation of decision making process and also the plurality and diversity of the nation, the consumerist culture is at logger heads with distributive justice. Without decentralisation process the political base of our diverse society and polity will cave in. Similarly, the lack of distributive justice will render the system spine less. Therefore, at a political level decentralisation of power and in the economic front distributive justice have to be guaranteed to sustain territorial unity and national integrity.

It is interesting to note that today the forces of communalism are clamoring for a strong centralised polity. They are advocates for a consumerist culture and the so called liberalization of economy which caters to the needs of the 'haves.' Let us learn from the tragedy of Somalia and Yugoslavia. The more we delay in decentralising the polity and in ensuring the deprived masses their minimum needs, the greater is the danger to parliamentary democracy in this country.

In fact, this is the crux of the social change that is needed. To facilitate the required changes, a new corpus of law is necessary. In this context, what Abraham Lincoln said is indeed appropriate. 'The dogmas of the quiet past are no longer adequate to the needs of the stormy present'.

We are indeed passing through a stormy period. We are out of tune with the temper of the times.

Our legislatures have unfortunately remained out of touch. Our people's representatives have displayed high disdain for moral values and ethical standards. Probity in public life is the biggest casualty of the day.

In such a scenario the legislatures with such representative of the people have failed to respond to the critical situations. Accountability of the Executive to Parliament, has been eroded. Be it the Question Hour, legislative business, or some other item in the parliamentary Agenda, it is found that legislative competence is not at its best. This has to be rectified to make the role of Parliament meaningful in the nation's life. A contributory factor to get the desired effect is, as earlier mentioned, to integrate the Parliament's role within the wider socio-political movements for a

political order based on decentralisation and distributive justice.

Our Parliament must not be reduced to a more 'talking shop'. It must address itself to the problems of the people in a much more vigorous way. In fact people depend more on Legislature than on Executive or Judiciary for substantive changes in our polity. Therefore, Legislatures have to rise to the occasion to grapple with the challenge.

Notwithstanding the set backs of limitations, the Parliament as the foremost legislative body has a tremendous role to play in ushering in social change. In the process it has to uplift the deprived and the weaker sections and discriminate positively in favour of the socially backward. The vast masses of the people groaning under chronic poverty have become the victims of a exploitative system. Their poverty leads them to be subject to gross injustice. The kind of legal, political or economic systems within which they operate strangles them. This situation has to be radically altered. After all for whose benefit was the Constitution framed? The ennobling provisions in the fundamental law of the land were not obviously for a microscopic elite or, for a 'new class' of administrators and ruling political elites. These are obviously for the common man, for the poor and the humble, for those who have business at stake, for the butcher, the baker and the candle stick maker'.

Therefore, for a purposeful social change the demanding task of the day is dynamic law making on the part of Parliament whereby the people's problems are articulated in an effective way and their grievances redressed by ensuring justice—social, political and economic. To this end Parliament must create conditions for social change so that, as previously mentioned, a decentralised political order on the bedrock of distributive justice is erected. Parliament as the 'grand inquest of the nation' must address the problem boldly.

PARLIAMENT AS AN INSTRUMENT OF SOCIAL CHANGE

Sudarshan Agarwal

Democratically constituted Parliaments the world over have assumed an important role in initiating social changes. Parliaments, no doubt, are basically the law-making bodies but this is certainly not their only and exclusive domain. Being people's institutions, Parliaments also are the lifeline of modern governmental activity. It is on the floor of the House that certain primary processes are set into motion which have the capacity to open the way to orderly change and innovation. If change is forced on a society without its consent, it is bound to cause disaffection, revulsion and sometimes even revolt. But if strategies evolved to transform society take into account people's will and if people's will and public opinion is consulted while initiating social change, perhaps a majority of the people will accept the change without demur. It is in the context of consulting public opinion while initiating social changes that one finds Parliament as the most authentic institution which represents people's will. Of course, there is the Press, social organisations, voluntary bodies and social action groups which do reflect popular will but they cannot claim to be as transparent and as effective as the legislative insti-

tutions, for the latter enjoy a better constitutional status, legitimacy and wider access to the people and the Government.

In its representational role, Parliament performs important functions but then it not only represents, it also provides necessary leaderships to the society. Members of Parliament or for that matter our legislators cannot be treated only as the representatives of the people; they are also their leaders. Naturally, therefore, they provide a definite direction to the society, they mould the society. Since the Executive is the creation of the Legislature and the Legislature exercises complete control over the Executive, no Government can afford to ignore the suggestions made by members on the floor of the House.

Though the social reform movements in India, had begun much earlier than the movement for Independence, not much headway could be made in this regard until 1947, when India became independent. Efforts to reform the society, in fact, got real impetus only after achieving political freedom and setting up of independent legislative institutions in India. A sizeable section of the national leadership wanted to initiate social changes of fundamental character in order to ensure quality of individuals in their social relationships. These leaders realised that orthodoxy and inequalities that existed in our society could, perhaps, be removed through legislative measures. To make the society move, to ensure social justice and equality in society, law has to provide a new ideal and new thought to be the most powerful body to initiate social change. This role of Parliament was highlighted by Dr. Ambedkar in the Provisional Parliament on 22 September, 1951, when he said :

Customs prevailing in the society are, no doubt, important but customs are not static. They keep on changing. Obviously, in a democracy, Parliament can play an important role in changing customary law. In earlier days when the institution of Parliament was non-existent, people regulated their life by making their own customs. But today this work rightfully belongs to Parliament and to no one else...to say that nowhere custom could be altered, amended, changed is really to abrogate the authority of Parliament.

During the initial years of its existence, Parliament passed various laws which aimed at reforming the society marked by feudal characteristics. One can reel off an impressive array of legislations enacted by the Indian Parliament for achieving the social and economic objectives contained in the Constitution. Some important legislative measures seeking to reform the Hindu society were initiated and passed by Parliament between 1952 and 1956. The Hindu Marriage Act, 1955, sought to codify and amend the customary laws relating to marriage and introduced monogamy and divorce amongst the Hindus for the first time. The Hindu Adoption and Maintenance Act, 1956, provided that a Hindu wife was entitled to be maintained by her husband during her life-time and that a widowed daughter-in-law was entitled to receive maintenance from her father-in-law. Another significant piece of legislation passed by Parliament was the Hindu Succession Act, 1956, providing for total equality between men and women as far as inheritance to property was concerned. Parliament enacted the Hindu Minority and Guardianship Act in 1956, which codified laws relating to minority and guardianship. It provides that a child is minor till the age of 18 and natural guardian of such a child is first the father and after him the mother. The prior right of the mother in this regard is recognised only to the custody of a child below five years of age. The Act directed that in deciding cases of guardianship, the courts must take the welfare of the child as the paramount consideration. To promote the ideal of secularism the Special Marriage Act of 1954, provided that marriages can be registered under this Act even though partners belong to different religious faiths. Thanks to this Act, it is now not necessary that parties should abandon their religion before they could marry and register under the Act.

Divorce is a phenomenon having significant social ramifications in all the communities in India. The provisions in regard to divorce are contained in Section 13 of the Hindu Marriage Act, 1955 and Section 27 of the Special Marriage Act, 1954. These Acts provide common grounds on which divorce can be sought by a husband or a wife. Muslim Women (Protection of Rights on Divorce) Act, 1986, specifies rights which a Muslim divorced woman is entitled to at the time of divorce and protects her interests. By the Parsi Marriage and Divorce (Amendment) Act, 1988, the scope

of some of the provisions of the parent Act enacted in 1936 has been enlarged so as to bring them on the lines of the Hindu Marriage Act, 1955.

Concerted efforts have been made to accord social and political equality to women with men. Apart from the laws relating to marriage, guardianship, inheritance, succession, etc. which provide sufficient safeguards to the rights and interests of women, Parliament has passed several other laws which seek to ameliorate the general conditions of women in our society. Foremost in this category are the laws prohibiting dowry and providing protection to women from violence of all kind. To curb the practice of taking dowry which is most derogatory to the dignity of Indian women, Parliament enacted the Dowry Prohibition Act, 1961. The Act was amended in 1986 to make it more stringent and effective. After the amendment, the minimum punishment for taking or abetting the taking of dowry has been raised to five years' imprisonment and a fine of Rs. 15,000/-.

Besides, the Indian Penal Code, the Code of Criminal Procedure and the Evidence Act provide for special protection for women because of certain historical reasons. These laws have sufficient provisions to protect women in regard to their personal safety, liberty, property and reputation. Over a period of time, Parliament has amended and re-amended to make these laws more effective to deal with problems faced by women in their day-to-day life. Parliament has passed several laws which take care of problems like sexual exploitation of women, their indecent representation, etc. The Suppression of Immoral Traffic in Women and Girls Act, 1956, the Medical Termination of Pregnancy Act, 1971, the Indecent Representation of Women (Protection) Act, 1986, the Commission of Sati (Prevention) Act, 1987 and anti-rape laws enacted by Parliament have certainly gone a long way in improving the lot of women.

The Constitution prohibits traffic in human beings. Accordingly, Parliament passed the Suppression of Immoral Traffic in Women and Girls Act, 1956, which bans prostitution in its commercialised form as an organised means of living. The Act was amended in 1978 and 1986 to rectify the inadequacies noticed in the application of the law. The amended Act has been retitled as

Immoral Traffic (Prevention) Act, 1986. It covers all persons, male or female, who are exploited sexually for commercial purposes. It makes punishment of offences involving children and minors more stringent. It also provides for setting up of Special Courts for the speedy trial of cases under this Act. Before 1971, abortion in India was illegal except when it was necessary for saving the life of the mother. Recent years have seen an increase in the cases of rape often resulting in unwanted pregnancies. These pregnancies place the victims under severe psychological strain. Victims of rape suffer physically, psychologically as well as socially. Sometimes mental strain is caused to a married woman who conceives much against her will. Medical Termination of Pregnancy Act, 1971 added more grounds for legal abortion. The Act allows abortion in pregnancies resulting from rape or causing mental trauma to a woman if she gets pregnant against her will and on eugenic ground—where there is substantial risk that the child, if born, would suffer from deformities, etc.

The spread of consumerism and the race for advertising consumer items have posed another problem before our society. Women are depicted in an abhorrent manner to push the sale of different products. The Indecent Representation of Women (Protection) Act, 1986 was passed by Parliament with the idea of preventing the depiction of the figure of a woman in a manner which is derogatory or denigrating to women or which is likely to deprave, corrupt or injure public morality. The Act prohibits all advertisements, publications, etc. which contain indecent representation of women in any form.

The practice of *sati*, an age old phenomenon, was the most inhuman and barbarous treatment meted out to women in society. Though legally banned during the British period, some cases of *sati* were reported from certain parts of our country even after Independence. These incidents brought forth new issues relating to atrocities on Indian women. Provisions in the Indian Penal Code regarding murder, suicide, culpable homicide, etc, were found to be inadequate to deal with the crime of *sati*. Parliament felt that the need of distinguishing *sati* from other crimes like murder, suicide, etc. required a fresh legal intervention to tackle the malady. Accordingly, the Commission of *Sati* (prevention) Act, 1987, was passed by Parliament which enlarged the scope of the defini-

tion of *sati*. The Act provides maximum penalty, i.e. death or life-imprisonment for the crime of *sati* or its glorification. Special Courts are to be constituted for trying the offences relating to *sati* expeditiously.

Apart from the social reform laws discussed above which are definitely aimed at improving the social conditions of women, many other important laws were passed by Parliament which fall in the category of labour welfare and social security measures. Notable welfare Acts in this regard are : the Bidi and Cigar Workers (Conditions of Employment) Act, 1966, the Factories Act, 1948, the Mines Act, 1952, and the Plantation Labour Act, 1951.

The Bidi and Cigar Workers Act prohibits the employment of women in any industrial premises except between 6 a.m. and 7 p.m. The Factories Act imposes certain restrictions in regard to the working hours for women in factories. The Mines Act provides that women shall not be employed in a mine which is below ground and that a woman employed in a mine above ground shall be allowed an interval of at least 11 hours after one days' work. The Employees' State Insurance Act, 1948 provides multipurpose social security benefits to women workers in specified establishments. The Maternity Benefits Act, 1961 confers various rights upon women workers during their confinement arising out of pregnancy, childbirth, miscarriage, etc. The Equal Remuneration Act, 1979, does not make any distinction in the wages admissible to the male and the female workers for doing similar work. This discrimination is also prohibited in the case of recruitment and conditions of service. The Act has been amended to plug the loopholes noticed in the law and to make it more comprehensive and effective. Parliament passed in 1984, the Family Courts Act to establish such Courts for speedy settlement of family disputes. The Act provides for setting up Family Courts in every city or town with a population exceeding one million. The Legal Services Authorities Act, 1987, provides that a woman or victim of trafficking in human beings will be entitled to legal assistance for filing and defending her case.

The National Commission for Women Act, 1990, has been passed by Parliament for establishing a National Commission for Women. The main task of the Commission is to study and moni-

tor all matters relating to constitutional and legal safeguards provided for women and to review existing laws and suggest amendments wherever necessary. The Commission also would monitor the proper implementation of all the legislative measures enacted from time to time to protect the rights of women so as to enable them to achieve equality in all spheres of life and equal participation in the development of the nation.

The problems of children have also attracted the attention of our Parliament. Children are the future of our nation. Naturally, we need to take adequate care of children. The National Policy for Children was adopted by Parliament in 1974 which describes the country's children as one "supremely important asset". It enjoins the Government with the responsibility of their "nurture and solicitude". A National Children's Fund was constituted in 1979 under the Charitable Endowment Act, 1890, to create a source of assistance for innovative programmes of child development. The National Institute of Public Co-operation and Child Development, New Delhi undertakes research, evaluation and training in the field of voluntary action and child development. The Children Act, 1960, passed by Parliament provides for care, protection, maintenance, welfare, training and educational and other related matters concerning the neglected and delinquent children.

The Young Persons (Harmful Publication) Act, 1956 was passed by Parliament with a view to preventing certain publications portraying violence, cruelty or horror so as to corrupt a young person. Under the Motor Transport Workers Act, 1961, no child is required or allowed to work in any motor transport undertaking.

Child marriages prevalent in certain regions of India were a matter of serious concern to our policy makers. To tackle the problem, Parliament amended the existing Child Marriage Restraint Act in 1978 and increased the marriageable age for boys to 21 and for girls to 18.

Indian society had been highly stratified on the basis of caste system which was characterised by exclusiveness and inequality among human beings. People were divided between 'low' and 'high' caste groups and a substantial section of society was

denied even the basic human rights. Persons belonging to this neglected section of society were regarded as "untouchables" by others. These people lived in subhuman conditions and suffered from the worst kind of deprivation, discrimination and social disabilities for centuries. "There was a condition of economic poverty made more miserable by social injustices". It was realised that such a system was not only against the fundamental precepts of individual freedom, liberty and justice but also an obstacle to the process of nation-building. Such an iniquitous social structure needed to be changed drastically.

Parliament has always been concerned about the welfare of the Scheduled Castes and the Scheduled Tribes. It has taken, from time to time, various steps to ameliorate their socio-economic conditions and has always been vigilant in matters concerning the implementation of constitutional safeguards provided for them. Parliament has passed several important laws concerning welfare of persons belonging to these communities.

An important measure of far-reaching consequences passed by Parliament was the Untouchability (Offences) Act in 1955. The Act provided penalties for preventing a person on the ground of untouchability, from entering a place of public worship and offering prayers or taking water from a sacred tank, well or spring. Penalties were also provided for enforcing any kind of social disability such as denying access to any shop, restaurant, public hospital or educational institution, hotel or any place of public entertainment, or denying the use of any road, river, well, tank, water tap, bathing ghat, etc. The Act was amended in 1976 and the original Act was renamed as the Protection of Civil Rights Act. The new Act has enlarged its scope and made penal provisions more stringent. The Representation of the People Act, 1951, has also been amended by Parliament to provide that persons convicted of any offence under the Protection of Civil Rights Act would be disqualified from contesting election to Parliament and the State Legislatures.

The bonded labour system in the country has been abolished through the Bonded Labour System (Abolition) Act, 1976, which prevents the economic and physical exploitation of the weaker sections of society. Since a majority of the bonded labour belong

to the Scheduled Castes and Tribes, enactment of this legislative measure by Parliament has given them a new hope.

A National Commission for Scheduled Castes and Scheduled Tribes with wider and more effective powers has been constituted to ensure justice to these communities. Besides, a National Backward Classes Finance and Development Corporation has been set up to assist the socially and educationally Backward Classes in their developmental efforts. The National Commission for Minorities has been given a statutory status with vast powers by an Act passed by Parliament.

When India achieved independence, nearly 75 per cent of its population depended on agriculture for their livelihood. For the task of nation-building, certain drastic changes in the socio-economic structure had to be brought about. That a change in the economic structure leads to a change in the social structure appeared to have been recognised when agrarian reforms were launched on a large scale in India. Land distribution in India was governed by the iniquitous feudal order. To change the economic relationship in the agricultural sector, land reform policy was approved by Parliament which removed impediments to the modernisation of agriculture and led to the reduction of gross inequalities in the agrarian economy and rural society. The system of Zamindari was abolished and ownership of land was conferred on the actual tillers. Ceilings were imposed on land holdings and surplus land was distributed among the landless. Holdings were consolidated with a view to making agriculture more convenient and productive. Similarly, the privy purse being paid to the former rulers was abolished and Banks were nationalised so that greater resources could be made available for the welfare of the weaker and backward sections of the society. All this was done by passing various legislative measures by Parliament.

All these welfare measures, clearly show that by enacting legislations in various areas of social life, our Parliament has, in fact, set in motion the process of social change in a significant manner. But Parliament does not seek to change the societal structure by only enacting laws. There are other means also through which Parliament, directly or indirectly, guides and controls changes in a society. Planning is one of them. In fact, the Directive Prin-

ciples of State Policy enshrined in our Constitution clearly set the socio-economic goals for which our Parliament has to work. For achieving the goals set out in the Constitution, planning process was adopted in India. Indian Planning has, over the years, become a philosophy of social action rather than an abstract model of development. Parliament, as the highest elected body of the people, has to carry the main thrust of planning in India to logical conclusions.

Parliament does not take part in formulating the developmental plans but it does influence the contents of plans by expressing opinion on major economic issues. Suggestion made by members on the floor of Parliament get incorporated in the final plan. For example, the problem of unemployment was not duly emphasised in the draft of the First Five Year Plan when it was brought before Parliament. Members felt strongly about it and advised incorporation of a separate chapter on unemployment in the plan. This was done by providing a separate chapter in the final plan document.

Apart from initiating and effecting social change in a directed manner through the instruments of legislation and planning, Committee System and discussions in Parliament also help in preparing public opinion for the changes to be brought about in the society. In 1967, members of Parliament suggested the need to set up a standing Parliamentary Committee with powers to look into the implementation of safeguards provided to the Scheduled Castes and the Scheduled Tribes. Accordingly, a Committee on the Welfare of Scheduled Castes and Scheduled Tribes was constituted on 18 December, 1968, following a motion adopted by the Lok Sabha on 30 August, 1968 and concurred by the Rajya Sabha on 25 November, 1968. The Committee examines *inter alia* the reports submitted by the Commissioner for the scheduled Castes and the Scheduled Tribes; the measures taken by the Union Government and such other matters as may appear fit to the Committee or referred to it by the House. The Committee prepares report on the working of the welfare measures in regard to these communities.

Discussions in Parliament have great educative value. Various opinions expressed in the House help people in assessing

what is good and what is bad for them. This is particularly important in a society which consists of large numbers of illiterate people.

Members of Parliament have been utilising, from time to time, various parliamentary devices such as Questions, Adjournment Motions, Calling Attention, Short Duration Discussions, etc. for not only eliciting information from Government on matters concerning the weaker sections but also for focussing the Government's attention on various social practices and problems which require urgent solutions. On several occasions, incidents of atrocities on weaker sections have been discussed in Parliament which has always expressed its concern over such unfortunate happenings.

Various programmes and policies formulated and implemented by the Government for the welfare of the people or proposal about such programmes also came under close scrutiny in Parliament when different Ministries/Departments submit their Demands for Grants each year for Parliament's approval.

Our Parliament is thus a great instrument of social change. Our secular ethos, our concern for justice and our eagerness to help the poor and the downtrodden are truly reflected in Parliament. In fact, if our Parliament strays from this path, it will lose its relevance and would become a defunct institution, no more serving the people. Parliament, therefore, must continue to work to reform society by initiating peaceful social changes.

PRESIDENTIAL OR PARLIAMENTARY MODEL ?

Madhu Dandavate

Disturbed by the growing political instability manifested in the emergence of a hung Parliament, political veterans, including some stalwarts of the Opposition, have reacted in a panicky way. They have pleaded for the replacement of parliamentary democracy by a suitable presidential system.

Stability and Accountability

A comparative study of presidential system and Parliamentary democracy leads to some important inferences. The Presidential system provides more stability but less accountability. On the other hand, parliamentary democracy, as it exists in India at present, may offer less stability but it provides more accountability to Parliament. Article 75 (3) of the Constitution makes it mandatory that, 'The Council of Ministers shall be collectively responsible to the House of the People'. Those who plead for discarding the parliamentary system to overcome the problems of instability are committing the blunder of throwing the baby with the bath water. They ignore the reality that elements of instability discernible under the existing model of parliamentary democracy are not the inherent characteristics of the system itself, and can be corrected through suitable electoral reforms.

The founding fathers of our Constitution were faced with the dilemma as to whether to give primacy to stability or to accountability. In their wisdom they gave priority to accountability despite the unstable conditions created by the partition of India. They expected that emergence of an appropriate electoral system would be able to tide over the problems of instability under parliamentary democracy, for which they opted.

What are the aspects of the present election system that have been showing the seeds of political instability? We see the spectacle of sharp disparity between the votes secured by political parties and the seats won by them.

In the very first, general Elections of free India held in 1952, the Congress party which came to power secured only 45 percent votes but won 74.4 per cent seats. All the Opposition parties together secured 55 percent votes and won only 25.6 per cent seats. The disparity between votes and seats got further widened in the elections in later year. This led to the formation of successive Governments at the centre which were essentially minority Governments in terms of votes secured.

Defections

Another source of instability of Government, both at the Centre and in the States, is the cancerous growth of defections. No doubt, there is an anti-defection law. But this law prescribes disqualification of legislators who defect, only if their number is less than one-third of the total strength of party members in the concerned Legislature. This has encouraged prospective defectors to engineer 'adequate' defections to avoid disqualification from the membership of Legislature and ultimately bring about the collapse of one Government and the emergence of another. All this is done invariably through manipulative politics offering various allurements to the splitters. Any new Government formed through such machinations is itself in an unstable equilibrium, because its supporters within are vulnerable to further defections and its supporters outside are capable of blackmailing the Government, from without. Such a Government survives on their mercy and falls due their betrayal.

In the presidential system, the emphasis is more on stability to the comparative neglect of accountability. Under this system there are policy issues on which decisions can be taken by the Executive, totally by-passing the Parliament. In the presidential model, it is not obligatory that the members of the Cabinet should be member of Parliament. Thus, under the Presidential system 'accountability' to Legislature, the very soul of democracy, is reduce to a farce.

Having indentified the complementary problems of stability and accountability. So essential for the success of democracy, the crucial questions to be answered are: how is the claim for stability to be reconciled with the requirements of accountability? Is it possible to achieve this in India within the framework of parliamentary democracy.

As a result of the present system of elections, there is a wide disparity between votes polled and seats of the causes of this disparity is the fragmentation of political life brought about by the multiplicity of parties. This leads to splitting of Opposition votes and subsequent disproportionate gain to the ruling party.

German Electoral System

Even the former West Germany had a similar problem but they resolved it to a great extent though a significant electoral reform. Former west Germany elections were held through a dual election system. A part of the membership of Parliament was elected as in India, through a single member constituency system. Another part of Parliament was elected on the basis of 'list system'. In this 'system' every voter is required to indicate his preference for a party. In other words he votes not for an individual candidate but for the party. In other words he votes not for an individual candidate but for the party. The percentage of votes secured by every party is calculated. And through a suitable formula, additional seats are allotted to every party on the basis of the percentage of votes secured by the party. In this system prior to elections every party submits a list of candidates in the order of preference. From this list additional candidates are allotted on the basis of percentage of votes polled by the party. Through this dual system of elections, the disparity between the votes and seats is substantially reduced. Consequently, the probability of a hung

Parliament is also removed to a great extent.

The multiplicity of parties, which causes splitting of votes was considerably reduced in the West German model through the scheme of State funding of elections. In this system, Government gives financial assistance to parties which had polled in the previous elections a minimum prescribed percentage of votes. Since small splinter parties could not fulfil this condition, they gradually merged in the ideologically like minded parties in the main stream. Thus the State funding of elections on the basis of votes reduced political fragmentation which was responsible for splitting of votes. This in turn further reduced the gap between votes polled and seats won.

Money Power

Very often, enormous money power vitiates the election results. The State funding of elections can ensure at least the minimum finances needed by a party candidate who has a genuine electoral support.

The role of money power in elections is not peculiar to India. Even in a country like U.K., money power was manifested in its ugliest form in the early years of Parliamentary democracy. In the 18th Century rich candidates used to 'purchase' constituencies through the 'brokers'. One member elected through such a financial transaction had received a letter signed by some voters. They had requested the member to tackle their exercise problem during the budget debates. To these voters the member wrote :

Gentlemen, I have received your letter about excise and I am surprised at your insolence in writing to me at all. You know, and I know, that I bought this constituency. You know, and I know, that I am determined to sell it. And you know what that you think I don't know, that you are looking for another; buyer and I know, what you certainly don't know, that I have found another constituency to buy.

This was the way in which even in a country like U.K. electoral constituencies were sold and purchased like dumb and mute animals and money power was demonstrated in its crudest form.

In India, year after year money power is exerting an increasingly disastrous impact on elections.

History Beckons

If India's democratic system is not to be destabilised, the growing money power has to be curbed through proper electoral reforms like the State funding of elections.

A review of the presidential and parliamentary models and the electoral system, with all its distortions, brings us the only one inescapable conclusion, that in the interest of accountability, which is the very basis of democracy, the model of parliamentary democracy will have to be preserved. To complement it with the element of stability, the electoral system will have to be radically reformed as in the dual (West German) model. Any hasty action to discard the parliamentary model will be detrimental to democracy. Let us not forget the lesson of history that whatever be the outcome of a presidential model in the developed countries of the world, in many developing countries of Africa and Asia, presidential system has invariably degenerated into some form of dictatorship. History beckons us to avoid this disaster. Let it not be said of us that—*'The only lesson we learn from history is that we don't learn from history.'*

PARLIAMENT AND THE LIMITS OF DIPLOMACY

K. Natwar Singh

Diplomacy provides hope, not salvation.

We set great store by legend and myth. So, let me begin at the beginning. Diplomacy got off to a bad start at the time of the *Mahabharat*. Sri Krishna was the first Hindu diplomat. When Yudhishtir requested him to go as a special envoy to the Kaurvas, Draupadi asked Lord Krishna what the purpose of his mission was since it was doomed to fail. Sri Krishna gave the Pandav consort an exquisitely diplomatic reply. He said he was going to the Kaurvas to present the Pandav case in the best possible light. He would invite them to accept the reasonable demands of the Pandavs. If, however, he failed and war became inevitable, then the world would know who was right and who was wrong, "so that the world may not misjudge between us".

His mission was unsuccessful. Diplomacy, creative and eminently reasonable diplomacy, suffered its first set back. Nevertheless, Sri Krishna obtained one very special privilege, diplomatic immunity for himself. Thus was born the concept, which made the person of the emissary sacred. This is no longer so. In the last 25 years, every outrage has been visited upon diplomats, including cold-blooded murder.

The other name that comes to mind when we examine the origins and roots of our political thinking is that of Kautilya, better known as Chanakya. The *Arthashastra* of Chanakya is not

an easy read. It offers practical advice to princes, rulers, states men and diplomats, on a multiplicity of subjects relating to the theory and practice of government. This undoubtedly original book was written anytime between the 4th century B.C. and 2nd century A.D. The startling fact is that it remained unknown to India and the world till 1904, when it was accidentally discovered in a village in the Mysore State. The first English translation appeared in 1909. That established the fame of Dr. Shamashastry, Prof. Kangle's translation was published in 1960. In between, the *Arthashastra* had appeared in several European languages.

Kautilya, although he lived fifteen hundred years before Machiavelli, has often been called the Indian Machiavelli. This is not meant as a compliment. Both have had a 'bad press'. Their precepts are regarded as synonymous with unscrupulousness. The epithets used for them are, patron saints of the devious and the underhand. Their sinister reputation obscures the fact that both possessed sharp and powerful minds. Both understood the power game—in short how to attain power and how to retain it. The end justifies the means. Politics is not an arena of morality but interests.

Kautilya's philosophy of state craft (including diploma) can be summed up in four words—*Sama*, *Dana*, *Bheda* and *Danda*. *Sama* is conciliation, *Dana* is concession, *Bheda* is rupture and *Danda* is force. These, Kautilya calls the four *Upayas*. Kautilya judged a policy by the results it produced not by its idealism or morality. If the actions of a king or a state produce unfavourable results, then that policy is harmful.

Kautilya divided state policy under six headings—peace war, neutrality, war preparedness, alliances and separating enemies. The lengthy seventh book of the *Arthashastra* is a comprehensive treatise on foreign policy and diplomacy. Kautilya is in some ways remarkable modern. Relations and negotiation between states were to be conducted by the *duta*, i.e. ambassador envoy. There are three types of *duta*: *Nisrstartha*, the plenipotentiary; *Parimitarthha*, an envoy with limited powers for negotiations and the *Sasanathera*, who is a message carrier. Kautilya visualises the posting of permanent envoys whose person is to be regarded as inviolable.

What, if any, impact has Kautilya made on independent India's foreign policy? Neither our freedom movement under Gandhi, nor our diplomatic relations under Pandit Nehru considered him as our patron saint. Nehru had read the *Arthashastra* and is rather taken by Chanakya. How well I remember his reaction in March 1953 to my answer to his question on the future of Sino-Indian relations, 'You are teaching me *Chanakya Niti* !'

He said this with a twinkle in his eyes.

In the *Discovery of India* Nehru is on the whole generous to Kautilya.

Chankya has been called the Indian Machiavelli, and to some extent the comparison is justified. But he was a much bigger person in every way, greater in intellect and action..... Bold and scheming, proud, and revengeful, never forgetting a slight, never forgetting his purpose, availing himself of every device to delude and defeat the enemy..... There was hardly anything Chanakya would have refrained from doing to achieve his purpose; he was unscrupulous enough.... he never forgot that it was better to win over an intelligent and high-minded enemy than to curse him.

The odd fact is that Emperor Ashoka followed not one precept of Chanakya. It is doubtful if he was even aware of his existence. Nehru, who attached the highest importance to right means to achieve right ends, never practised *Chankya Niti*.

So let us now leave the learned and wily Kautilya and turn our gaze to more recent times and to note the subtle difference between foreign policy and diplomacy. Foreign policy is what you do. Diplomacy is how you do it.

The Oxford English Dictionary defines diplomacy thus: "Diplomacy is the management of international relations by negotiations; the method by which these relations are adjusted and managed by ambassadors and envoys; the business or the art of a diplomatist".

Hans J. Morgenthau, in his book *Politics Among Nations*, has much to say about diplomacy. Most of it is sensible. Some of it is far too theoretical and academic. So often scholars disregard the practical aspects. Theory and practice must go hand in hand. Learned Professors, with notable exceptions, are for ever catching diplomacy by the tail and spinning it around in the class room. Morgenthau, from time to time, provides interesting insights into the art, craft and theory of diplomacy. He writes, "Diplomacy of a high quality will bring the ends and means of foreign policy into harmony with the available sources of national power."

Only sovereign and independent nations can have a foreign policy. Only the plenipotentiaries of these nations can conduct diplomatic negotiations. It is possible for a country to have a good foreign policy and poor diplomacy or *vice-versa*. A bad home policy cannot produce a coherent, meaningful, influential, creative foreign policy. No amount of diplomatic agility or brilliance could make the Anglo-French-Israeli Suez misadventure acceptable either to their allies or their adversaries. The 1961 Bay of Pigs fiasco of the United States made American diplomats hang their heads in embarrassment and shame. No diplomatic genius of the Soviet Union could 'sell' their invasion of Afghanistan to the world. Pakistani diplomats were helpless in the face of the disastrous course adopted by their President Yahya Khan in East Pakistan in 1970-71. No amount of sophistry by Indian diplomats could 'sell' to the world the emergency imposed by Mrs. Indira Gandhi in June 1975. The Cultural Revolution of Mao Tse-Tung left Chinese diplomacy in tatters. The U.S. involvement in Vietnam created serious domestic and international problems for America. In all these crises, diplomats could do very little.

The most glaring example of the limits of diplomacy has been dramatically highlighted by the disappearance of the Soviet Union. The Russian and C.I.S. diplomats are not to be envied. What can they do when confusion prevails? Gromyko was Foreign Minister of the erstwhile Soviet Union for 27 years. Now they do not last even 27 weeks.

The worst example is that of South Africa. Apartheid could never make good foreign policy and South African diplomacy almost and deservedly perished for almost two generations. One

Nelson Mandela was worth more than a 1,000 South Africa diplomats.

The communications revolution has also led to the decline of conventional diplomacy so as the demise of reticence.

In today's world, the media invasion of diplomacy is a permanent invasion. It cannot be reversed. Diplomats have to live with it and learn to use it to their best advantage. This needs a particular kind of skill and temperament.

In democratic countries Parliament play an extremely important part as far as foreign policy and diplomacy are concerned. It is in Parliament that the foreign policy and diplomacy of a Government are discussed and approved. Parliamentary diplomacy also carries its own perils. But we in India have been fortunate because since 1947 there has been a broad national consensus on foreign policy. In spite of this, there have been times when wide differences have appeared. On the whole, this has been a healthy exercise and keeps the foreign policy establishment and Indian diplomats on their toes.

Summit and Conference diplomacy are also there to stay. Diplomats of the future will be of a totally different breed and figure lower in the pecking order. They will, to survive, have to become experts in finance and trade, drugs and terrorism, environment and ecology, science and space, interest rates, balance of payments and debt rescheduling.

Thus, diplomacy in the decades to come will assume a different character, a substantial shift from diplomacy we have known. The maintenance and creation of new institutions and procedures to tackle the new problems and protect the common interests of human kind will be high on the agenda of the New Diplomacy. This is a challenge for all diplomats. They will have to work very hard to rebuild our relations in the post-Cold War era. A great deal of new thinking is needed, not only by us but by all major countries. The New International Order cannot be imposed by any one country. There are limits even to the influence the diplomacy of any one power can wield to shape tomorrow's world. There are limits even to the diplomacy of the most powerful super-power.

THE PURPOSE AND GLORY OF PARLIAMENT

P. G. Mavalankar

Parliament is at once a living idea and a lively institution. Only in a genuine democratic climate, does Parliament survive and thrive.

An open society and an alert citizenry are the prerequisites of a democratic polity. It is sustained by a well-habituated, self-analytical and self-critical community of people, and is strengthened by receptive and responsible individuals.

A modern democratic Parliament is necessarily a representative assembly, constituted periodically and regularly with the system of "free and fair" elections and on the basis of universal adult franchise. All men and women above the age of eighteen (barring some obvious exceptions such as lunatics, bankrupts and criminals) have the right to vote and this right is exercised and enjoyed by all voters as a matter of sacred democratic duty.

Now what is Parliament meant for? What, after all, does Parliament do and not do? What in brief, are the purposes and functions of Parliament?

Parliament of course, talks. Originally, the word 'Parle' means "to talk". It all began in England as a talking group among the peoples concerned thrashing out openly and candidly the various events and issue affecting the daily lives of the community (more particularly its commoners), demanding (and later on insisting upon) the redressal of grievances from the authorities in question (at first the Sovereign and then the Government of the day in Britain). As time passed, Parliament became more and more of a multifunctional institution performing a variety of roles, but its basic function has remained intact right up to this day - viz to talk to speak out ! Herbert Morrison, one of British Labour Party's eminent Parliamentarians aptly called it a "talking shop": To be able to talk freely, fearlessly and when necessary even fiercely, in the public interest, on all big and small public matters on the floor of the legislative chamber, for the entire House and the country at large, to listen and pay need to, is the very vital purpose of Parliament. It is the *raison d'être* of its functioning, the salt of its very being. A free debate for the sake of a free debate! For "a debate in a free Parliament", asserted Col. Wedgwood Benn (later, Viscount Stansgate) clears the air for more effectively than a bomb in a beer cellar: The whole charm of parliamentary deliberations is that though a particular discussion ends the debate continues. This is the glory of Parliament, and such is the majesty of its debates.

The Speaker of the British House of Commons on re-lighting the lantern above Big Ben in London on 24 April, 1945, prayed that, "what God's blessing this light will shine henceforth not only as an outward and visible sign that the Parliament of a free people is assembled in free debate, but also that it may shine as a beacon of sure hope in a sadly torn and distracted world".

Parliament is an interesting and unique debating club in-formality and intimacy mark its atmosphere earnestness and eagerness enrich its temper; a spirit of inquiry and attitude of tolerance inform its proceedings. It runs on the basis of "give and take" on the principle of compromise and accommodation. Every member belongs to this club, and all play their part as per the rules of the game, remembering always that winning or losing, success or defeat, is important, but sportsmanship and comrade-

ship are indispensable. In such a body, partnership may be unavoidable, yet partnership is inevitable. Parliamentary spirit should prevail over party strife. Parliament as a truly and fully representative body, has to reflect the aspirations and mood of the whole nation, it is the guardian-angel of, and for, all the peoples and their collective as well as individual pursuits aimed at the common weal.

"Freedom" and "Fairness" are the two hall marks of a vibrant, vigilant, virile Parliament. A captive and docile Parliament is a contradiction in its meaning. The most important function of Parliament is to talk, criticise, expose propose and dispose of the matters and it should be able to do so uninterruptedly and without fear or favour. Full freedom of expression is, therefore, as much a prize parliamentary privilege as it is an imperative and honourable responsibility. Walter Bagehot, in his classic "The English Constitution" has admirably described for functions of Parliamentary discussion, or criticism, one among which is "expressive" i.e. the expression of the people's will which he also called as the lyrical function and the teaching function.

An independent Parliament according to Edmund Burke in a free and democratic country acts as the greatest inquest of the nation. Parliament has a right to be fully and continually informed about all the affairs of the State and it is equally the duty of Parliament to keep the people properly and adequately acquainted with the many and varied happenings of the Government and other public agencies.

So, the deliberative function of Parliament is too obvious to merit further explanation. Evidently, Parliament does not govern it supervises and controls those who govern. It does not normally initiate a policy but usually endorses it, carefully and critically and gives shape to it: Discharging this crucial function of debating and their approving or not approving, modifying or rejecting the policy of the Government of the day, Parliament examines and analyses the several implications of the policy, raises doubts and questions, makes suggestions and queries, expresses fears and anxieties and thereby puts a valuable parliamentary stamp on the validity of the governmental policy.

Freedom of debate in Parliament is fortified by the conduct of fairplay of its members from all sides and corners of the House. They must speak as well as listen. There is no point in members hearing their own voices only: A readiness to give an enthusiastic ear to the expressions of other points of view helps, revise and strengthen one's own opinion and position on a given subject. A patient hearing of different and even opposing lines of thought must lead to careful pondering and cordial understanding among the various representative and different benches in the House. Mutual respect of one another's personality and point of view builds up a refreshingly healthy environment of fair play.

Parliamentary procedure enshrines both these characteristic and qualities of freedom and fairplay. It enjoins all to play the game as per the rules and conventions of the game. It ensures both continuity and stability in the midst of many changes and challenges of the times. Always changing, yet change less in its spirit and purpose, Parliament has its roots in history of centuries job, yet its branches reach out to the days still to come so wrote Commander Stephen. King-Hall founder President of the Hansard Society, London) while referring to the British Parliament. In sum, the institution of Parliament with its purposeful functioning, combines the nation's past with the future in the present: A People's genius and culture are thereby emphasized and enhanced.

In a speech in the House of Commons, on 6 June, 1951, Winston Churchill described Parliament as the citadel of liberty whose object is to substitute argument for fistcuffs.

In my view, Parliament is a perennial subject of compelling and continued political and public interest. It is the spirit of Parliament that I adore: How does one define, rather describe it? Its precise meaning is more actually experienced and understood than expressed and underlined: Professor Roland Young has attempted to enlarge this phrase "the spirit of Parliament" thus:

One finds in the proceedings of Parliament, a sense of order and purpose and achievement, a respect for the dignity of political office, a restraint in performance and a reasoned approach to controversial topics. There is among the members a prevailing spirit

of dedication even of goodness and the belief that political subjects are important and should be earnestly considered. Political debate is often vigorous...but an attempt is made to keep Political conflict within the bounds of moderation and often of dignity.

ELECTORAL REFORMS

S. L. Shakdher

India has enjoyed the unique distinction of being the largest democracy in the world and elections constitute the bedrock of our democratic system. Conscious of the importance of elections in a democratic polity, the founding fathers provided, for this purpose, a self-contained Chapter in the Constitution. The provisions in the Constitution have been supplemented by the Representation of the People Act, 1950, the Representation of the people Act 1951, the Presidential and Vice-Presidential Elections Act, 1952, the Government of Union Territories Act, 1963 and the rules and orders made thereunder. The courts have also wisely supplied flesh and blood to the most general provisions of the constitution. All these enable the Election Commission to function smoothly and effectively for conduction elections in a free and fair manner.

Doubts are, however, expressed at times about the elections being really free and fair. On occasions, some allegations are made regarding governmental interference and the secrecy of voting. At the outset, therefore, it is essential to dispel the misgivings in this regard.

A significant feature of the electoral process is a voluntary code which has been evolved by the Election Commission in consultation with the political parties and the Union and State Governments. The code is quite comprehensive to check unfair practices that may be indulged in by anybody. The candidates, political parties and the Government being anxious to uphold the sanctity of elections, ensure the observance of the code. This by itself is an achievement of a high order.

Further, the electoral process provides enough safeguards to ensure absolute secrecy in voting. The machinery employed at the polling booth is so designed as to enable an elector to exercise his vote without fear or favour and in absolute secrecy. He is given a ballot paper at the booth after his name is checked with reference to particulars in the voters' list and a mark is put on his finger with indelible ink, manufactured under a secret formula, to prevent impersonation and voting for the second time in the same election. Although each ballot paper carries a serial number. It is not noted down in the voters' list to safeguard the secrecy of voting.

The signature or thumb impression of a voter is taken on the counterfoil of the ballot where only the elector's number in the voters' list is noted down and not his name. After the poll, the counterfoils are bundled and sealed in a separate cover which can be opened only under the orders of a competent court.

A screened compartment is utilised to enable elector to put the voting mark on the ballot paper. After such marking, the folded ballot paper is inserted into a ballot box secured with a special kind of paper seal manufactured by the Government Security Press and seals of candidates' agents and the presiding officer. The box is kept in the full view of the agents of the candidates and the presiding officer.

After close of the poll, the box is further secured with the seals of the candidates' agents. The agents of the candidates not only accompany the vehicle carrying the box taken to the storage centre before counting but also can keep a vigil over the place of storage till it is taken out for counting. Each agent is supplied with a ballot paper account giving details of the number of ballot

papers issued to a booth, number used at the booth, and the number unused on the basis of which the agents can ensure at the time of counting that the ballot boxes contained the same number of ballot papers as were issued to voters at the time of poll. Thus, the procedure followed provides a foolproof system of free and fair election with secrecy kept intact.

India has so far held 10 general elections, the first being in 1952. With an electorate of 515 million, the tenth general election in 1991 turned out to be the largest ever exercise. Each general election has been a unique democratic experience. Despite apparent lack of formal political education, the electorate has displayed their innate political acumen and robust common sense by giving their verdict in fairly clear and decisive terms. This resulted in the change of Governments in 1977, 1980, 1989 and 1991.

It is, however, now widely recongnized that in order to preserve and strengthen the democratic set-up the electoral system needs to be kept under careful watch and to reform it or change it, whenever it is necessary to do so. It is also fairly known that the system at present in force has developed certain fundamental defects which need to be corrected.

The author, during his tenure as the Chief Election Commissioner, had drawn attention to the problems that had arisen in the past and initiate certain reforms, with a view not only to remedying the ills afflicting the system at that time but also to strengthening it further on right lines to achieve greater heights in the coming years. The reforms that were initiated included the following:

- (i) *Practice of erecting camps near booths stopped* : The practice of erecting polling camps near the polling booths was stopped so that peace and tranquillity on the poll day was not disturbed and also no political influence of an undesirable kind was alleged by anyone.
- (ii) *Plying of vehicles regulated* : The plying of vehicles on the road on polling days was regulated so as to prevent the illegal carriage of voters to and from the polling booths.

- (iii) ***Number of booths increased:*** The polling booths in a constituency were increased by nearly 50 per cent and located as near the electors' residence as possible so that they were enabled to vote without having to travel long distances, thereby also eliminating the need to use vehicles.
- (iv) ***Observers appointed:*** High-level observers were appointed in every constituency to act as the 'eyes and ears' of the Commission. Their mere presence served as a deterrent against any irregular act, thereby keeping the polling staff, the police and the political parties alert.
- (v) ***Constituency Committees formed:*** These committees, presided over by the Returning Officer and attended by the candidate, representatives of political parties and senior officers of police, were constituted to look into the complaints made on the previous day and take follow up action, thereby overcoming the communication gap that previously existed between the administration on the one hand and political parties and candidates on the other.
- (vi) ***Electoral rolls updated:*** The electoral rolls, which is *sine qua non* for pure, free and fair elections, were updated with reference to the date of an election or bye-election. Further, a policy decision was taken to revise the electoral rolls with reference to 1st January every year so that the electoral rolls were up-to-date at all times for all elections held during a year even at a short notice.
- (vii) ***One day polling introduced:*** One day polling in a State was introduced in order to keep everybody busy on the same day and eliminate the chances for voters to rush from one place to another thereby causing disturbance and voting by impersonation. In some large States, the voting was spread over two days.

- (viii) *Scheme for issue of identity-cum-photograph cards introduced:* A scheme for issue of an identity-cum-photograph card to each elector in a phased manner was introduced. Apart from eliminating impersonation, booth capturing and doing away with the elaborate revision of electoral rolls, the scheme has great potentiality for being helpful in several other uses such as implementation of various planned schemes like public distribution of essential commodities, rural and urban development, etc. As an experimental measure, it succeeded in one or two States. This is yet to be introduced on an all India basis.
- (ix) *Electronic voting introduced:* The electronic voting machine was introduced for exercise of votes by the electors with a view to improving upon the existing marking system of voting and make elections purer, quicker and less expensive. The experiment succeeded when it was introduced, but its wider use has yet to take place. The Representation of the people Act 1951 has since been amended for the purpose.

The other important aspects of the electoral process requiring careful consideration, to my mind, are the following:

Election Expenses : Over the years, the expenditure on the conduct of elections and the electioneering campaign by candidates and political parties has been increasing very sharply. While the 1952 elections to Parliament and State Assemblies put together cost Government Rs.10.45 crores, the 1989 elections to the Lok Sabha alone cost Government Rs.110.15 crores, notwithstanding all the economy measures taken to keep the costs down. It is certain that with the present system of conducting elections, the costs will escalate at least in proportion to the rise in the cost of living.

As regards the expenditure on campaigns by candidates and political parties, there is no accurate record available with candidates or parties. All we have are rough estimates some real Some imaginary—rumours or conjectures. It is not wise to base

any firm ideas on the basis of such perfunctory material. Nevertheless, there is a universal talk of big money being spent on elections. It is said that money comes from businessmen, big or small, foreign countries and all sorts of questionable sources. There is an atmosphere too thick for any one to ignore, that elections are tainted with money illegally obtained, and this creates a doubt whether elections are indeed free, fair and pure.

The ceiling and other legal constraints placed on election expenses have not discouraged some contestants and political parties from lavish spending on electioneering campaigns and circumventing the accounting procedure. The actual election expenses incurred by candidates and political parties at present have no co-relation to the character of the constituency, the number of electors and the proper and fair means required for educating and enlightening the electorate to win the votes. There is an old saying that he who pays the piper calls the tune. Thus the functioning and working of political parties may become eroded and influenced by outside interests, thereby creating captive politics. This often makes the election manifestos and promises of political parties empty slogans and meant not to be taken seriously. Further, it creates a tendency among the candidates and parties to subserve the interests of those who wield money power and are prepared to pay any price for shaping the policies of the Government to serve their vested interests. The question is how to break the vicious circle.

The ceiling on election expenses laid down in the law had not been fixed earlier on the basis of any objective study. It was decided arbitrarily and without consulting the political parties which are vitally concerned. As chief Election Commissioners, the author came to the conclusion that while the costs should be kept to the minimum, there must be a realistic approach with reference to the main and common items of election expenses in a constituency. In our zeal to keep the elections inexpensive we should not make a mockery of the ceiling but should accept that elections will cost money, the only governing factor being to determine acceptable and reasonable limits. As a result of such a study and after consulting the political parties on the basic norms, the amount of ceiling was decided upon mainly on the basis of the size of the electorate in a constituency in each State. The Govern-

ment of India accepted the recommendation of the Election Commission and the ceiling was raised in 1979 to Rupees one lac from Rs.35,000 for a parliamentary constituency in larger States with proportionate variations for smaller States. In 1989, it was increased to Rupees one lac and fifty thousand.

There is a serious lacuna in the working of this provision. The candidates are required to file returns of election expenses, but the Commission has only to see whether the return was filed in time and was within the prescribed limits. The Commission has not been vested with the power to see whether the return filed is accurate. The Commission has to accept the statement made by a candidate as correct in all respects. Such a system leaves the door wide open for all kinds of irregularities. the author therefore has all along felt that:

- (a) the expenditure incurred by the political parties and friends and well-wishers in furtherance of the prospects of a candidate in a constituency should be brought within the ceiling of election expenses. Only expenditure by parties on political education without reference to any particular constituency should be exempt from such ceiling;
- (b) political parties should maintain detailed accounts in which each item of receipt of money by way of subscription, donation, subsidy, etc., and each item of expenditure should be recorded and the account should be subject to periodic audit; and
- (c) the Commission should be empowered to examine the election returns on merits to satisfy itself that they are accurate and correct in all respects.

State Funding : Connected with this is the question of Government financing the election expenses. As already stated, the cost of elections has been going up but it is still undetermined as to what sources should be legally tapped for campaign finances. At the same time, we have to see that deserving candidates are encouraged to stand for election even though they do not possess the minimum money to conduct their campaign. Considering all these aspects, there is a strong view that the legitimate election

expenses of candidates should be progressively shifted to and be borne by the State. It is not difficult to lay down norms for identifying the areas and quantum of financial assistance on the basis of the poll performance of political parties at an election.

In this connection it was believed in 1980 that if an election fund of say Rs.100 crores for a period of five years was created initially, it would take care not only of Government expenses but also of the expenses incurred by the candidates and political parties. The union Government will be required to contribute to such a fund Rs.10 crores every year and all the State Governments together another Rs.10 crores. Such a small sacrifice can surely be made to maintain the edifice of democracy which we so love and cherish. This reform will not only purify the electoral process, eliminate the scope for candidates to procure money from unscrupulous financiers but bring about a great change in the conduct of public affairs at such a small cost to the public exchequer.

Electors' participation in voting : Another matter which has been a cause for concern is the small number of electors who participate in voting. Assuming that every vote is genuine, only 56.6% of the voters on an average have cast their vote during the first nine Lok Sabha elections. In absolute numbers the figures are impressive, for they still constitute the largest number of voters in the world. But as a percentage of India population, it means that only about 25 to 30% have shown their preference for one or the other party. There is need for more electors to take active part in voting so that the ruling party reflects a higher percentage of the population vote. It may be that most voters are apathetic or do not know that they have an active or positive role in choosing the Government; or it may be that some voters are frightened away from casting their votes. There are various kinds of complaints in this regard. There is also need for dedicated polling agents for it is with their help mostly that a vigilant eye can be kept on the administrative machinery and unsocial elements so that elections are in fact conducted in a free and fair atmosphere.

In this task of educating the voters on proper lines and keeping political parties in a state of efficiency and alertness,

voluntary organisations like Voters' Council can play an important and useful role.

Reform of Party System : At present, political parties make strong demands for the conduct of free and fair elections to legislative bodies, but choose to ignore the application of the same principles when it comes to the functioning of their own party organs. They hold no party elections and continue to function for years on an *ad-hoc* basis. Sometimes there has been a tyranny of the minority over the majority because of undemocratic functioning and other practices. A few person in a party, occupying a vantage position in the apex body, strangle the democratic functioning and aspirations of the members of the party at the grass-roots and keep the party under their strict control. The voice of the majority does not find expression in important decision-making processes, thereby creating fissures in those organs and eventually leading to splits.

The bone of Indian politics is the plethora of parties. In all countries, which have made a success of parliamentary democracy, party system had grown either by tradition or regulated by statute. In India also it was believed by the architects of the Constitution that it was possible to build up traditions for the party system. However, this has not happened. The alternative is to reform the party system by enacting a basic law governing the constitution of political parties, laying down broad guidelines for conducting their after on democratic lines and preventing defections.

Multiplicity of contestants : A disheartening aspect of the Indian electoral system is the multiplicity of contestants at elections. Added to this are an unlimited number of independent candidates, some of whom may be party rebels who stand for elections. Although the law permits this in the name of equal opportunity for all, it was expected that contestants would exercise self-restraint and only those who were potential candidates would actually stand for election but this has not come true. In the general elections to the tenth Lok Sabha in 1991, as many as 5230 independents contested elections as against 3175 in the 1989 elections. In one constituency (Bhiwani) there was a record number of 122 contestants in the 1989 elections. In the same

elections the second largest number of candidates was 50 in the Outer Delhi constituency.

This creates a number of administrative problems at the last minutes, such as providing additional symbols, long ballot papers, more ballot boxes, and so on. In Bhaiwani constituency it was the largest ever ballot paper—85 cm long and 68 cm wide—almost the size of a full newspaper sheet. Extra-large ballot boxes had to be arranged for the ballot paper with names and symbols of 16 candidates each printed in eight panels. All such efforts involve avoidable expenditure. Considered from any point of view, this is not a healthy trend in the electoral system. There are qualified candidates in whom the electorate may repose confidence. But it was been noticed that a large number of contestants poll very few votes and lose their deposits. Elections should be treated as a business and not as a commercial proposition or a joke. In the 1980, Lok Sabha election, one candidate stood for election from 13 parliamentary constituencies and several from three or four parliamentary constituencies.

To reform this, two or three things need to be done : first, the present security deposit should be increased substantially and each candidate should be proposed by a number of proposers as against one proposer at present; secondly, the security deposit should be forfeited in the event of the candidate failing to secure one-fourth of the valid votes polled in a constituency; thirdly, a candidate failing to secure one-fourth of the valid votes should be disqualified for standing in an election for some years. These measures will encourage only really serious candidates to contest and votes will not be frittered away.

Restructuring of electoral process : Another question for consideration is whether the present simple majority system, *i.e.* 'first past the post' has been found to be suitable or it calls for a change to any better and more equitable system which would truly reflect the choice of the voters as a whole. There has been a demand for a long time to adopt some kind of proportional representation so that there is co-relation between the members of the ruling party and the Opposition parties in a Legislature in the same ratio as the votes polled by them at the election. In addition to this, change is desired on two more grounds: the first is that at

present more stress is laid on the caste of a candidate who is chosen to stand for election; and the second is that merit is largely a casualty in the selection of candidates. There is truth in this analysis but the question is how best to achieve the objective without making the system too cumbersome or captive in the hands of a few?

One such procedure could be to have direct elections to 50% of the seats in the Lok Sabha and Legislative Assemblies from territorial constituencies while the remaining 50% of the seats may be filled from lists furnished before hand by political parties, in proportion to the votes secured by such parties in that State, in the territorial constituencies. Of course, the advantage in the present system, with all its defects is that it has generally yielded stable Governments and the need of the hour is stable Governments and functioning Legislatures. It remains to be seen whether the suggested system will indeed give us stable Governments and also eliminate the present defects or whether it throws up new problems say the iron grip of party bosses on the composition of Legislatures that could make them ineffective. Any change in the system has thus to be given considerable thought assess its suitability or otherwise in the context of existing conditions, and the likely repercussions. It is well to remember that multiplicity of parties may not bring about the desired benefits expected on such a change over.

Destrability of President's Rule during elections : Experience has shown that if elections are held when there is President's Rule in the States, the election machinery runs smoothly and without any interference from any political quarters. It seems desirable that from the day the elections are announced, there should be President's rule in the States, so that Ministers, the existing members and the new candidates have an equal chance at the polls. There should not be any unfair advantage to any one.

Various proposals regarding electoral reforms have been widely debated in the past. The experience gained over the years has also emphasised the need for further strengthening the measures for ensuring free and fair elections. The author, other Chief Election Commissioners, intelligentsia and eminent public persons have therefore made several suggestions from time to time.

The Government, under the premiership of Shri Rajiv Gandhi, held consultations with political parties to ascertain their specific views in the matter. Keeping in view the various suggestions, the Government introduced in the Lok Sabha on the 13 December, 1988 the Representation of the People (Amendment) Bill, 1988, having been passed by the Lok Sabha and the Rajya Sabha on 20 December, 1988, it became Act No.1 of 1989. The electoral reforms implemented thereby are as under :

- (i) Statutory definition of political party and the procedure for its registration laid down. The political parties to include a specific provision in the memorandum or rules or regulations governing their functioning that they would be fully committed to and abide by the principles enshrined in the preamble to the Constitution.
- (ii) For the purpose of preventing frivolous candidates in respect of election to the Council of States and the Legislative Council of States, the number of proposers increased to ten per cent of the total electorate or ten proposers, whichever is less.
- (iii) To facilitate the use of electronic voting machines, necessary amendments made in the Act.
- (iv) Designated officers of State Governments involved in the work relating to the preparation, revision and correction of electoral rolls and the actual conduct of election to be under the control, superintendence and discipline of the Election Commission during the relevant period.
- (v) To prevent persons having criminal record from entering into public life, more offences included in Section 8 of the Act.
- (vi) To deal firmly with the offence of booth capturing and rigging of elections and to make the same as a corrupt practice also, necessary penal provisions included in the Act.

- (vii) Penalty for disturbing election meeting raised from Rs.250/- to Rs.1000/- and a term of imprisonment for three months also provided.

Reforms listed at (i) to (iii) above had been suggested by the author. Another major suggestion of the author since implemented is regarding vesting local bodies elections in the Election Commission. This has been done in December, 1992 with the passing of the Constitution (72nd Amendment) Bill, 1991 and the Constitution (73rd Amendment) Bill, 1991.

Implementing yet another suggestion of the author, voting age in India has been lowered from 21 to 18 years with the enactment of the Constitution (61st Amendment) Act, 1989. This reform will not only ensure organised participation of the younger generation in electoral system but will also have effect on the composition of legislative bodies in as much as the views of the younger generation will be reflected therein.

An important measure, since passed, has been the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Bill, 1991. This has become Act No.11 of 1991.

Electoral Reforms contemplated : To fulfil the election promise made by the National Front Government to undertake urgently the electoral reforms, the then Prime Minister, Shri V.P. Singh convened a meeting mainly of the representatives of the political parties in Parliament on January, 1990. On the basis of the broad consensus arrived at this meeting the Government constituted a Committee on Electoral Reforms on 19 January, 1990 consisting of representatives of the political parties and some eminent persons having deep knowledge on the subject. The author had the honour of being on this Committee. After due consideration, the Committee submitted a detailed Report on 4 May, 1990. The Government considered the Report and generally agreed with the recommendations of the Committee. Based on the accepted recommendations of the Committee, the Government introduced in the Rajya Sabha on 30 May, 1990, the following three Bills on electoral reforms:

- (i) The Representation of the people (Amendment) Bill, 1990 ; (ii) The constitution (70th Amendment) Bill,

1990; and (iii) The Constitution (71st Amendment) Bill, 1990.

The salient features of the Representation of the People (Amendment) Bill, 1990 were as under :

- (i) To restore the position obtaining prior to the 1974 amendment with reference to keeping a separate and correct account by a candidate or his election agent. (The political parties were divided as to whether the ceiling on election expenses per candidate should include the expenses incurred by a political party on his behalf. The author was in favour of such inclusion following a decision of the Supreme Court in 1975 which however, had been nullified by an amendment to the P.R. Act in the same year. He had, therefore, separately recommended in 1978, in this capacity as the Chief Election Commissioner, that the Act should be reamended to restore the position existing before 1975). To deal with the other complaint of election expenses being unrealistic, the Bill sought to empower the Election Commission to fix such limits from time to time.**
- (ii) To make a beginning with regard to State funding towards elections by supplying free of cost to the candidates of recognized political parties items like copies of the electoral rolls, certain quantity of diesel or petrol for certain number of vehicles and payment on account of hire charges or certain number of microphones. (This was the other major reform suggested to the Voters' Council by the author in 1980).**
- (iii) Enable the Election Commission to nominate observers to watch the conduct of elections with the power to direct the Returning officer to stop the counting of votes or not to declare the results in certain contingencies like booth capturing.**
- (iv) To provide that one candidate can contest from one constituency only in order to minimise by-elections**

in future.

- (v) to ensure that by-elections are held within six months.
- (vi) Disqualification of a person convicted under the prevention of insults to national Honour Act, 1971 for a period of 6 years from contesting any election.
- (vii) Countermanding of elections to take place only in the event of death of a candidate belonging to a ruling party, and not an independent candidate.
- (viii) To increase the secure deposits by the candidates.
- (ix) To ensure peaceful conduct of elections by reducing the influence of money and muscle power.
- (x) To give legal sanction to the Code of Conduct for Political Parties evolved by the Election Commission.

The Constitution (70th Amendment) Bill, 1990 sought to lay the procedure for appointment of the Chief Election Commissioner and the other Election Commissioners; these appointments to be made in consultation with the presiding Officers of the two Houses of Parliament and the Leader of the Opposition (or the Leader of the largest group); in the appointment of Election Commission also to be consulted; and Independent Secretarial to be provided to the Election Commissioner for conducting the elections effectively.

The Constitution (71st Amendment) Bill, 1990 sought to delimit the constituencies once again on the basis of the 1981 census but without altering the number of seats and provision to be made for rotation of the constituencies reserved for Scheduled Castes and Scheduled Tribes every ten years. Having been passed by the Rajya Sabha, the Bill is pending in the Lok Sabha. At present, it stands referred to a Select Committee.

Although the present Government is also committed to electoral reforms, it is not pressing the other two Bills introduced in 1990. Due to certain incidents in the tenth general elections, the Government feels that a greater indepth study is required before a comprehensive Bill is brought for ward. Clarifying the position in the Lok Sabha 28 February, 1992, in reply to a question, the

Government further stated that it is proposed to call a meeting of the leaders of the Opposition to 'evolve a consensus on the electoral reforms' which may be acceptable to everybody.

The seriousness of the Government is evident from the observations made by the Prime Minister, Shri P.V.Narasimha Rao at the inauguration of the conference of Chief Ministers on administration of criminal justice in New Delhi on the 13 November, 1992. He observed that all kinds of illegalities were being committed for electoral gains. This might shake the democratic system the Prime Minister, therefore, warned:

"If public life itself gets criminalised, there is hardly any area of activity in the country which can remain outside its pale. We will have to do some serious thinking on this subject, its effect on the election process, the way votes are cast, the kind of booth-capturing that goes on, even crime with electoral motivation that are becoming more and more prevalent"

It is to be hoped that both the Government and the Opposition will approach the task of electoral reforms in a non-partisan and co-operative spirit and with a sense of urgency.

PARLIAMENTARY GOVERNMENT IN INDIA : THE FEDERAL DIMENSION

S. C. Gangal

In his early writings, especially in the *Hind Swaraj* (1909), Gandhiji had criticised parliamentary government for its lack of initiative and fickleness. However by 1920, he came round to the view that *Swaraj* would mean "the parliamentary government of India in the modern sense of the term..." About the same time, he had also stated that *Swaraj* should arise "from the wishes of the people of India as expressed through their freely choosen representatives." It was also a constant refrain of the Indian National Congress. In the main, there were three contemporary models to choose from: the American model of presidential government, the Swiss model of direct democracy and "collegial" executive, and the British or Westminster model of parliamentary democracy and Cabinet Government. During the process of Constitution-making, it came up as a major question in the early months of 1947. The issue was clinched at a joint meeting of the Union Constitution Committee (UCC) and the Provincial Constitution Committee (PCC) on 7 June, 1947. And the decision (as reported by Shri Vallabhbhai Patel in the Constituent Assembly) was that India "should have the parliamentary type of Constitution, the British type of

Constitution, with which we are familiar."

The related question of the location of power, within the parliamentary framework, had been intensely debated during the pre-independence period, especially because the Muslim League strongly pulled in the direction of a loose federation or confederation— with substantial powers (including the residuary powers) being vested in the provinces. With the acceptance of the partition plan, the Muslim League factor was eliminated. Even so, there was no question of so large and diverse a country as India going in for a unitary political system. However, members in the Constituent Assembly took the view that federation was "not a definite concept," so that the best policy would be to "pick and choose" from the leading federal systems like the United States, Australia, Switzerland and Canada. This policy produced several variations of established ideas about the division of powers and the relations between the centre and the units or states and created (what Granville Austin calls) "a new kind of federalism." But what is it like in theory and practice ? The present paper is an attempt to answer this question.

According to an oft-quoted statement, attributed to Dr. B.R. Ambedkar (Law Minister in the first Central Cabinet and Chairman of the Constitution Drafting Committee), the Constitution of India is designed to be federal in normal times and unitary in emergencies. This early estimate of the Constitution—of federation in particular—by one of the "fathers" seems to have coloured the judgement of commentators in general since then. Hence the common practice is to dispose of the question by describing the Constitution as "quasi-federal," a term used first by Professor K.C. Wheare with regard to the Indian Constitution. But the question deserves deeper consideration.

Apparently, there are in the Constitution all the elements of a federal polity — a written constitution, dual Government, an independent Supreme Court to adjudicate the Centre-State disputes, and a distribution of powers which cannot be unilaterally altered by either the Union or the State Governments. And yet a federal system is more than a mere combination of these formal provisions. Indeed the essence of a federation is that

in it the two types or levels of government — the central and regional — should be both independent in their respective spheres and “coordinate”. None of them should be able to dictate or override the other in the latter’s sphere or exercise control over it either directly or otherwise. It is this kind of polity that, by and large, the Constitution of the United States envisages, and which is widely regarded as the best specimen of federal government. Hence the basic point is to see whether in India the two types of governments — the Union government on the one hand and the governments of the states on the other — are co ordinate and independent of each other in their allotted spheres.

The Constitution does make provision for a clear-cut distribution of powers between the Union government and the State governments (the Seventh Scheduled to the Constitution). Hence it is generally taken for granted (perhaps following the line of least resistance) that in normal times the Constitution will work along federal lines and that only in emergencies (articles 352-60) is its federal character liable to be impaired. However, while maintaining the distinction between the normal and emergency character of the Constitution, it is not adequately realized that the declaration of emergency can always be made by the Union government acting alone — indeed by the Union executive in the first instance.

There are some other provisions, too, which merit analysis. Thus, there is article 249. According to this article, the Council of States (Upper House of the Union Parliament) can, by means of a resolution passed by a two-thirds majority of the members present and voting, transfer a subject or group of subjects from the State List to the Union List for one year in the first instance, but renewable indefinitely. Thenceforward, the Union Parliament becomes competent to legislate on the subjects thus transferred from the State List. And this is a provision which can be invoked and given effect to at any time even in absolutely normal times. Obviously, this provision in article 249 has far-reaching implications for federalism in India. It means, unmistakably, that at any moment just one House of the Union legislature (without any reference to the States) can, acting by a two-thirds majority of the “members present and voting” transfer one or more subjects from the State List to the Union List.

Lastly, attention must be directed to articles 200 and 201. Under the provisions of these articles, the Governor of a State is empowered to reserve for the consideration of the Union President, any bill passed by the State legislature, and it is in the President's power to withhold assent to a bill so reserved. And since there is no limit to the Governor's power for thus reserving bills for the President's consideration, the power can, in an extremity, be stretched to the extent of bringing the entire State Legislation (and through it the whole government of the State) under the review or even control of the Union government and all this without even the semblance of an emergency.

From the above analysis, it follows that the division of powers between the Union government and the States in the Indian Constitution (and that is the crux of federation) is more apparent than real, for it is within the power of the Union government both in emergencies (articles 352-60) and in normal times (*vide* articles 200, 201 and 249) to bring the entire administration of the country under its unitary control. Thus, the basic principle of the Constitution is not federalism, but unitarism with a high degree of decentralization of powers in favour of the States. But, it must be observed, while a Constitution is unitary, the government in practice may not necessarily be so. Indeed, the Canadian federal government is a living example of this sort of divergence between the theory and practice of a Constitution. Hence, it is essential, in order to complete this study, to inquire into the actual working, as distinguished from the theory, of federation in India. Let us, therefore, have a look at the practice of the Constitution.

Since July, 1959, when President's rule was imposed in Kerala, the emergency power to take over the State government's (under article 356) has been used over a hundred times. Yet another method of powerful Central intervention in the politics of the states in India has been for the Central Party leadership to influence the selection of the State Chief Ministers (in States governed by their own Party).

Last, but not least, there is the institution of the Planning Commission. It has the power to approve or clear all development schemes or projects of the state and the allocation of development

funds to the latter. According to a one-time Union Minister and former Finance Commission Chairman, K. Santhanam, so unrelenting and pervasive is the power of the Planning Commission over the States that a project disapproved by the Planning Commission can be pursued by a State Government only "if the State government is prepared to face the consequences of refusal of Central assistance not only for that project but for other projects as well."

It is manifestly a picture of dominance-dependency relationship between the Centre and the States, both in the political sphere as much as in the economic realm. But whether one likes it or not, this equation (or rather the lack of one) is hard to sustain in a vast and varied country like India. New forces of regional identity and political awareness have emerged in various regions or states, clamouring for a measure of political autonomy and a larger or more equitable share of the economic resources. They cannot be wished away for too long.

It was some such awareness—the awareness to face up and thrash out the unresolved problems of Indian federalism—which led to the setting up (in 1983) of the Sarkaria Commission on Centre-State relations headed by former Supreme Court judge, Justice R.S. Sarkaria. The Commission issued an elaborate questionnaire to proceed with its work and took over four years to prepare and submit its 500-page report. The Commission turned down the suggestion for the amendment of the Constitution to transfer more subjects to the States or to the concurrent list. But it recommended that a "firm convention" be evolved to the effect that the States should be consulted before undertaking central legislation in the concurrent field. In keeping with the need for maintaining national unity it recommended the retention of the wide-ranging all-India services. The Commission rejected the demand for any substantial modification of Articles 355-56, but it recommended that Article 356 "should be used sparingly, in extreme cases, and as a measure of last resort". It also rejected the plea to make any change in the status and powers of the State Governors nor in the exercise of their sweeping powers under articles 200 and 201. However, it recommended the early establishment of the Inter-State Council (to discuss and resolve inter-

state or Centre-State issues), as envisaged under Article 263 of the Constitution. The Council has since been operationalised

But the successful working of the Inter-State Council or the resolution of the larger question of evolving "co-operative federalism" hinges on a larger awareness or perception. The leadership should be able to gauge the essentially co-operative thrust of contemporary federalism more so in a developing society. Until this human dimension of the problem is understood and sincerely taken care of, neither investigative efforts (like the Sarkaria Commission) nor the establishment of new agencies or institutions (like the Inter-State Council) will be able to deliver the goods. In this context, the national leadership would do well to recall the Gandhian approach to government which had laid great stress on the decentralization of power not only between the centre and the states but down to the villages whom gandhiji described as "the main repository of power."

INDEPENDENT CANDIDATES IN INDIAN ELECTIONS

M. V. Pylee

The electoral process in India has been made almost a mockery by the influx of an increasing number of independent candidates in successive elections during the last two decades. Until 1967 their number was rather limited. But thereafter the number began to swell in an abnormal manner. For instance, there were 2694 and 3746 candidates in 1980 and 1984 respectively for the Parliamentary elections. In 1989, their number had further increased to 3928.

The countermanding of the Lok Sabha by election in the New Delhi constituency in November 1991, following the death of one of the 85 candidates, an independent almost unknown to the constituency, has served to focus attention on this serious electoral problem. Under the electoral law, if any candidate dies between the day of valid nomination and the election day, the election in that constituency has to be countermanded. A recent amendment to the law has taken away this provision and therefore an independent candidate's death will not countermand the election hereafter. This phenomenon has been on the increase in recent times because of the unusually large number of candidates of whom many are non-serious contestants. In fact, Independent

candidates have become a menace to the electoral process and has distorted the entire system.

The rationale behind the proposed amendment to the Representation of People Act is to correct this distortion. It seeks to abolish the present provision of countermanding of election in the event of the death of an independent candidate and restrict the countermanding only on the death of a candidate belonging to a party. Such an amendment was carried out for the 1985 Elections held in Punjab but that provision was allowed to lapse. It is now widely felt that in the absence of such a provision the smooth progress of the electoral process will become difficult and hence the amendment.

The Election Commission of India recognises political parties in three categories: National Parties, State Parties and Recognised Parties. In the 1989 General Elections, the Commission had given recognition to 8 parties as National Parties, 20 parties as State parties and 89 Parties as Recognised Parties, thus a total of 117 parties in the country as a whole. The army of independent candidates belong to an entirely different category and there is hardly a constituency which does not have a large number of them. This phenomenon which has been producing a plethora of contenders has made ballot papers of increasingly unwieldy proportions. It makes the exercise increasingly costly as well. The practice also affects the electoral system qualitatively. It is common knowledge that a large number of independents are non-serious candidates but have entered the fray for reasons other than political.

In 1984, only one out of 758 independent candidates got elected. In all, only five of them could succeed to reach parliament. And for every independent candidate elected, 749 of them lost their security deposits. In some of the constituencies, there were as many as 80 or more candidates. Many of them polled as low as 100 votes; or even less.

The large number of independent candidates makes serious administrative problems such as large number of additional symbols at short notice apart from ballot papers of unusual size to be printed, and large number of polity agents to be accommodated in the polling booths and the counting centres. The cost of elections also goes up as larger and larger quantity of paper is

required for printing the ballots and the number of ballot boxes also has to be increased as they can hold only a smaller number of ballot papers in view of their larger size. Perhaps there is no other country in the world where democratic elections are conducted with such great number of independent candidates who enter the fray.

At altogether unexpected development which was not originally envisaged in connection with parliamentary elections in India, has been the problem of security of candidates. The security environment has been deteriorating steadily in recent years generally and in several States in particular where terrorist activity has been widespread. As a consequence, Government has to provide security guards to every candidate validly nominated. The Government has also to pay their expenses on food and lodging. The problem becomes even more acute when some of the candidates do not have even a permanent residence or refuse to sleep at the same place every day; In a rather queer case of an independent candidate suspected of unsound mind contesting in a by election in 1991, the security guards had a difficult problem to handle because sometimes the candidate would choose to sleep by the road side and at other times on a railway platform; the guards on duty had no option but to carry their bed-rolls along and join him wherever his inclination took him. There were also cases reported where police officials in sheer desperation requested some of these candidates to rest in the secure premises of police stations to make the problem of their security better handled.

A senior police officer of one of the Districts of Uttar Pradesh told a visiting newspaper correspondent that three Independents contesting the Tilhar Assembly seat in the November 1991 by elections were house servants of a party the Congress (I) candidate. In the crowded electoral areas of the constituency there were 40 candidates, mostly independents and non-serious ones. A Police Inspector who had gone to provide two security guards as per election guidelines to an independent candidate was surprised to find him cooking at the residence of another party candidate a well-known local leader. The candidate was unwilling to accept the guards as this would lead to many problems to him. The police officer was of the opinion that such dummies are fielded deliberately to garner maximum benefits on the polling day. "The

more dummies you have the more vehicles are at your disposal for election Purposes", he said.

According to the then Law Minister Shri Vijay Bhaskara Reddy, there was evidence in the 1991, November by elections to the Lok Sabha and some of the Assembly constituencies that each candidate had several dummy candidates, as many as 15 to 20 in some cases. And each of them had to be provided with a security cover comprising a sub-inspector of police, a head constable and two constables. It was proving too much of a burden on the security set-up.

The Punjab Government had been keen on the amendment of the electoral law so that the elections in the State scheduled to take place in February 1992 we are not adversely affected due to terrorist attacks on independent candidates. Militants had shot dead as many as 23 candidates in punjab during the campaign period in May-June 1991. This had led to the countermanding of 23 Assembly and 3 Lok Sabha Seats out of a total of 117.

The one and the only argument against any steps to stop independents to enter the electoral fray is its theoretical incompatibility with the norms of an open electoral system that cannot deny representation to non-party opinion. Nothing but a strictly technical interpretation of such norms, however, can equate opinion of the people, represented in uncommon cases by some persons of eminence. Even if it happened in a few rare cases in the past, it hardly happens in the present. The overwhelming bulk of the independent candidate during the past two decades and more have been found to be non-serious, frivolous or dummy candidates.

The much needed electoral reforms to check these tendencies have not come through yet even though parliamentary elections have been gradually losing their credibility during the last two decades due to a host of electoral malpractices. This in spite of the fact that there were unanimously agreed recommendations of the All Party Committee on Electoral Reforms. The Election Commission also has been urging the Government to bring about reforms but the politicians lawyers wanted to take maximum advantage of the loopholes of a law which gave them opportunities to indulge in malpractices.

The question is often asked as to why there has been an abnormal increase of independent candidates in successive elections since 1967. One important reason is that candidates have several temporary advantages such as the allotment of telephones on a priority basis, immunity from requisition of their motor vehicles, supply of paper at subsidised rates for printing posters, leaflets, etc. Then there are candidates who want to be in the limelight through publicity by challenging a VIP candidate of an important leader. There are some independent candidates who file their nominations in a large number of constituencies. Theoretically the same candidate can file nominations to as many constituencies for which elections are held to the Lok Sabha and there is nothing under the present law to stop him from doing so. Take the rather strange case of Kaka Joginder Singh, a resident of Bareilly, whose objective in contesting elections is to enter the Guinness Book of World Records for losing the deposit in the largest number of elections:

In a decision of the Supreme Court in Shri Rajiv Gandhi's election to the Lok Sabha in 1981, the court has drawn particular attention of all concerned to the menace of the independent great proportions:

"Experience showed that a large number of independent candidates contest candidates which has assumed great proportions. Experience the elections with a view to making out grounds for challenging the election. The presence of a large number of such candidates results in confusion for the millions of illiterates and ignorant electors who vote on the basis of symbols printed on the unduly long ballot papers. In the instant case, out of 14 candidates who contested the election, eleven, including the appellant, contested as independents and they polled a paltry number of votes. This shows how serious these candidates were. During the arguments, the appellant glibly stated that he had contested the election to the office of President and Vice-President and that he would be reforming the society and the election law. The situation causes anxiety to us and

we hope that parliament will devise ways to combat the onslaught of independents”.

Among the recommendations of the Election Commission to curb the menace of independents, the following deserve serious consideration: (i) Revising the security deposit to ten times the present amount, that is Rs.5000 for a Parliamentary candidate and Rs.2500 for an Assembly candidate; (ii) Increasing the minimum percentage of votes required for refund of security deposit from one-sixth to one-fourth; (iii) Disqualification of a candidate who fails to secure at least 20 percent of the valid votes; and (iv) denial to independent candidates all the present facilities such as sanctioning of a telephone on a priority basis, etc.

Even if these recommendations are accepted and acted upon, it is doubtful whether the menace of independent candidates can be fully eliminated. At best they might bring about a limited extent of salutary effect but certainly no permanent solution. The only way independents can be eliminated from the electoral arena is by an amendment to the Representation of people Act prohibiting independents to contest Parliamentary or Assembly Elections. The law should provide that every candidate should belong to a political party and his candidature should be endorsed by the party concerned. Many democracies follow this practice. This is the case in almost all countries of Europe. Our own neighbour Sri Lanka follows this practice. There is no compelling valid reason to keep independents who have become a menace to democratic elections in the electoral fray and allow the system to be distorted.

PAGEANT OF PARLIAMENT— THE NATION ON PARADE

Sunanda K. Datta-Ray

The late Piloo Mody, who so enlivened proceedings in the Lok Sabha, once said that if an Indian was unfit for any vocation he became a journalist. When journalistic hackles began to rise as he intended them to Mody blandly added that if an Indian was not even fit to become a journalist, he entered politics and became a member of Parliament.

The Swatantra Party leader was genuflecting at the altar of established fashion. E.M.Forster did not think any member of the House of Commons could afford to be as trusting as the newspaperman outside who left a stock of papers and his cap beside it for people to put their money in. "A Parliament is nothing less than a big meeting of more or less idle people," wrote Bagehot, the high priest of British constitutional government. Across the Atlantic, Mark Twain was even more devastating: "It could probably be shown by facts and figures that there is no distinctively native American criminal class except Congress."

But, of course, this disparagement is only a way of acknowledging the Legislature's vital role in a nation's life. For all

his cynicism, even Forster thought parliamentary democracy deserving of two cheers, "one, because it admits variety and two because

it permits criticism." These still remain the system's outstanding virtues. Many other attributes can be listed, many faults cited, but it is only through the give and take of parliamentary life, even through the chaos of 'zero hour,' that a Naga and a Sikh, a Malayali and a Mizo, a Tamil and a Kashmiri, or, for that matter, a Hindu and a Muslim, can become involved in the collective endeavour of running this great country.

Dr. Bal Ram Jakhar says that "our parliament has been compared to the Hindu Trinity with its triple function as Creator, Preserver and Destroyer." He agrees that it is not an inapt description. Yet, it sometimes seems that there might be more than a grain of truth in Pilloo Mody's flippancy.

In the last three years, India was subjected to pressures that it had not experienced in the previous thirty. The run-up to the 1989 elections was heavy with grim foreboding. What followed appeared to impugn the system as a whole. Turbulent election campaigns, bitter allegations of malpractices, cruel bloodshed, indecisive poll results, and turmoil in both Houses of Parliament were compounded by unstable minority governments. The raucous cacophony of some Lok Sabha and Rajya Sabha sessions made it difficult to imagine that the word "unparliamentary" was once the most damaging epithet in an educated Indian's vocabulary of pejoratives. So far have we left that age behind that an insurance company might even regard the job of legislative presiding officer, "the only autocrat" in the whole set-up of parliamentary democracy, as G.V.Mavalankar put it, as high-risk employment.

We usually blame this decline on the multitude and quality of our political parties. Not for nothing has it been said that one, Indian is a party, two are a party and an opposition, and three means a split. As the political drama stumbles from one bizarre episode to another, it is tempting to echo Jonathan Swift's lament that "party is the madness of many for the gain of the few." It is only too easy to savour with Macaulay a halcyon past when democracy was not in bondage to the numbers game,

"Then none was for a party,

Then all were for the state.

Then the great man helped the poor,

And the poor man loved the great."

These are only dreams. Whatever idyllic norms may be associated with the ancient republics of Mithila and Vaishali, whose august assemblies presumably did not ring to the clash of contending points of view, the phrase "partyless democracy" acquired the same adverse connotation in the subcontinent in the late eighties as "basic democracy" did in the late fifties and early sixties. The dissolution of the Soviet system has further endorsed Disraeli's claim "that without party parliamentary government is impossible." We must accept our political parties, warts and all, if we agree that, in a way, Parliament provides the underpinning of Indian unity.

Not everyone agrees, however, that the institution serves us best. Elitists the world over complain that the Westminster pattern sanctifies the tyranny of the majority. The abridgement of Parliament's powers was once welcomed as a smack of firm government, necessary for the Third World's functioning anarchies. An authoritarian alternative seems attractive when political instability is compounded by economic stagnation and a moribund administration. Parliamentary democracy is regarded then as too soft and flabby: only the mailed fist, so runs the argument, can put down the ethnic, religious and linguistic passions that threaten to tear apart the fabric of the state.

Some might even claim that, in practice, the Indian system falls far short of Westminster's noble ideals. The low turnout in our general elections and the slightly more than forty per cent of the vote that the winning party usually commands might be interpreted to suggest that Parliament does not speak for the nation as a whole. In a strictly statistical sense, India has always been ruled by a minority. On the other hand, it is a scattered enough minority to be regarded as a representative sample of the entire population.

A more relevant shortcoming of our political life could be that the parliamentary system has enabled a single party to monopolize power for 46 years. Repeating the classical postcolonial pattern that is evident throughout the newly independent countries of Asia and Africa, the party that won independence has governed India without a Significant break since the British left the subcontinent.

Technically, of course, the Congress Party was out of office between 1977 and 1980, and again, between 1989 and 1991. But none of the three supposedly non-Congress Prime Ministers, Shri Morarji Desai, Shri Vishwanath Pratap Singh and Shri Chandra Shekhar, was elected on a distinctly different platform. Not one represented a new school of political thought or offered the country an alternative programme. Nor did any one of them ever totally relinquish his claim to the Congress mantle. They were all factional leaders who had been thwarted in their hopes of assuming the leadership. Differences of personality rather than principle separated them from the party's mainstream and its acknowledged leaders, a separation that was forced on them and in which they acquiesced with obvious reluctance.

Nothing could be more unlike the sharp gulf between Britain's Whigs and Tories in the 18th century when even the ladies of the two parties flaunted their political loyalty by wearing patches of different colours on different cheeks. In spite of the homogeneity of British society, the inheritors of that great tradition offer voters a menu to choose from at each election, though it is true that economic necessity may now have blurred dividing lines to some extent. But compared to the choice that Westminster still offers, India's party system seems to be still only in its infancy.

The contrast between Britain and India is even reflected in the different physical structures of the House of Commons and the Lok Sabha. In the former, the Treasury and Opposition benches are divided by the length of two swords, a precaution that dates back to an era when beer mugs had glass bottoms so that there could be no surprise draw and quick lunge of steel. When the British were rebuilding the Place of Westminster, which had been damaged by bombing during World War II, many favoured a semi-circular seating arrangement, such as we have in New Delhi and

Calcutta. Churchill opposed the innovation, not because he was wedded to the Gothic past but because, as he put it, "the party system is much favoured by the oblong form of chamber." He suspected that members might more easily slide from one camp to another along the curve of seats, whereas straight rows of benches facing each other vested the physical act of crossing the floor with greater physical and symbolic significance.

As Churchill pointed out, he knew what he was talking about. After all, he had accomplished the feat not once but twice. But, of course, Churchill was an innocent in the art of defection. His views were formed long before the resourcefulness of some of our own gallant legislators in Haryana and elsewhere demonstrated that the shape of the legislature, or the arrangement of its seats, cannot thwart the spirit of lucrative adventure.

No Parliament is omnipotent, though some ruling parties with a crushing majority might find it expedient to act as if "parliament can do anything except make a man into a woman." The decision to endow Bangalore with a Vidhana Soudha that rivalled the Maharaja's palace in magnificence was rooted in the calculation that the simple multitude still draws inspiration from tangible symbols of authority. But it is no secret that the world is so tightly organized nowadays that national governments—and, therefore, their legislatures as well—have lost much of the authority they once wielded.

Those who accuse Shri Narasimha Rao and Shri Manmohan Singh of succumbing to pressure from abroad need to bear in mind that the situation is not confined to the Third World. Nor is it new. Attlee's colleague, Ernie Bevin, spoke for all nations when he made the perspicacious comment that he could "have an independent foreign policy" if only he could put the British economy right by increasing Britain's annual export of coal by millions of tons.

Two other examples come to mind. On Sunday, 23 August, 1931, Britain's Labour Cabinet paced the garden of 10 Downing Street, waiting for Messrs. J.P.Morgan and Company to let them know whether the economic measures the British Government had proposed were sufficient for the New York bankers to feel justified in floating a loan. Secondly, it became clear to the British

Treasury in the middle of the Suez war, on Tuesday, 6 November, 1956, to be exact, that it could no longer support Sterling without immediate IMF loans and others forms of aid that the United States effectively controlled. The Anthony Eden Government's telephoned appeal for help produced the reply that Washington would respond only if Britain accepted the United Nations' cease-fire proposal by midnight. A newspaper reader at the time might have been excused for supposing that Eden had yielded as a result of the sharp criticism voiced in the course of stormy debates in the Commons.

This global shift in the ultimate centre of power is matched by domestic checks and balances. The judiciary and the executive set certain parameters; as we all know, Parliament cannot violate the "basic features" of the Constitution. A tradition of personalised authority sometimes keeps even the Cabinet Committee on Political Affairs in the dark on important matters, a drawback that can affect parliament's credibility.

More of that later, it bears stressing here that a diminution of authority in some respects has only underlined the importance of the original purpose conveyed by the French term *parler-lement* to speak one's mind—whence the word parliament is said to have been derived. A vital relationship between Parliament and the people, and the crucial purpose Parliament serves in allowing the people's representatives to let off steam, is implicit in that meaning.

The House of Commons is often described as a talking shop, and commended for precisely that reason. A talking shop is even more necessary in a diverse and volatile society where the only alternative to the clash of debate might well be the clash of arms. Yugoslavia personifies the tragedy of a state that failed to establish a satisfactory dialogue among its ethnic constituents. Multinational republics need an arena where grievances can be aired and demands discussed so that even if conflicts are not resolved, all groups have a sense of participating in decision-making at the highest level. Parliament is the people's tribunal; its members are today's incarnation of the tribunes of ancient Rome. Limitations notwithstanding, Parliament is where governments can be called to account for their actions. It is the only legitimate

forum where broad policy guidelines should be laid down.

The Ayodhya crisis is a case in point. Obviously, no legislature can solve the riddle that has been referred to the Supreme Court. But, then, neither is the question a matter of law. The suggested alternative of settling it on the basis of historical and archaeological evidence would open a deadly Pandora's Box. Parliament alone can break the stalemate by coming to grips with the challenge that lies at the heart of the controversy. Parliament alone can decide whether India is to remain a secular republic in which all communities enjoy equal rights, and where the acknowledged status of places of worship is respected, or whether the Indian state should be redefined to reflect the culture of the majority.

This was a matter that exercised members of the Constituent Assembly. If it has not received sufficient attention in Parliament, the blame does not belong to the institution. The crisis that confronts the country today would not have taken us unawares and found authority groping blindly for formulas if its early beginnings—the Somnath Temple inaugural, Dr. Rajendra Prasad's qualms about the Hindu Code Bill or K.M. Munshi's correspondence with Nehru—had been thrashed out in the Lok Sabha instead of being allowed to fester in secret. The fault is of the singer, not the song. Secrecy is the antithesis of parliamentary democracy. But Parliament can only be as vigorous and effective as its members will allow it to be.

It is a truism to say that Parliament's potential remains grossly untapped in this country. To fulfil its promise and live up to public expectations, the institution must be seen to be far more integral to the business of government. The parliamentary system can decline into irrelevance if attendance is poor on important but unexciting occasions, if members table questions and do not bother to show up when answers are given, if rules are not mastered, and if legislators lack specialised knowledge in the age of economic democracy. There are not many members of the calibre of the late Jyotirmoy Bosu with his exhaustive research, attention to detail, and fearless Estimates Committee reports.

Many faults of omission and commission now detract from Parliament's authority as a major unifying factor. Since it is not

mandatory for Indian to declare their interest, for instance, voters have no way of knowing whether their representative speaks for himself or for those to whom he may be financially or otherwise beholden. A cogent case can be made out against the lobby system, as it obtains in the United States, but it can hardly be argued that the absence of formal ground rules protects Indian legislators from the coercive influence of not-so-hidden persuaders. Dadasaheb Mavalankar's vision notwithstanding, the Committee system has not developed sufficiently for Parliament's watchdog role to be properly discharged.

On the other side, frequent recourse to ordinances can amount to legislating behind Parliament's back. The absence of confidence implicit in this device is confirmed by the refusal to promote debate on a number of crucial subjects.

India's defence and foreign policies have undergone drastic revision in the last couple of years. The changes themselves are not being discussed here, only the manner in which they were implemented. The Government's economic reforms were announced and debated in the Lok Sabha and can thus claim a broad measure of public support. Not so the new strategic thinking that has led to a ten-year security dialogue with the U.S. Pacific Command, produced joint naval exercises and combined training programmes, and prompted India to host a military seminar to which, at one time, we would not even send observers.

In such cases parliamentary endorsement is not merely a question of propriety. It is a matter of political sagacity. When a major and potentially controversial policy decision is taken without Parliament's consent or even knowledge, there is always the risk that it can be repudiated, even by sections of the ruling party that may feel ignored. Other governments produce White papers on defence as a matter of routine, even when there is no question of such far-reaching changes.

perhaps successive governments would have treated Parliament with greater deference if it had not been for the Lok Sabha's principal weakness. Shri Atal Behari Vajpayee long ago succinctly stated a flaw that might turn out to be fatal for democracy. Disagreeing with a 1972 Parliamentary Committee decision, the Jana Sangh leader (as he then was) complained that the law

encouraged an overwhelming majority of legislators to "embark on their parliamentary careers with a gross lie—the false election returns which they submit." There are some laws that make thieves of honest men : the Representation of the People Act in one such.

No one disputes that the Act was adopted in 1951 with the highest of motives. It was to lay the foundations of a democracy in which the people—granted universal adult suffrage the following year—would choose their representatives on the basis of virtue alone, shaping a republic whose keynote would be integrity and austerity. There is no need to dwell on how far reality has strayed from that noble goal. Suffice it to record that only 17 years after the Constitution came into being, the Chief Election Commissioner (CEC) pointed out that "the legal provisions relating to election expenses as they stand at present are of no use and call for drastic amendment." By 1971 the CEC appears to have accepted that free and fair voting is impossible "when the whole country in every sphere and department of life and activity is plunged in the ocean of corruption."

There is no simple cure for a malaise that vitiates every aspect of India's life. But let us not, at least, make it also incumbent on legislators to "embark on their parliamentary careers with a gross lie" by setting laughably low ceilings on campaign expenditure, and then turning a blind eye to virtually universal violation. In other spheres India is waking up to the wisdom of Churchill's dictum that "if you destroy a free market, you create a black market; if you have ten thousand regulations, you destroy all respect for the law." But that realization has so far skirted the myth that elections are won by the selfless labour of starry-eyed acolytes who spurn the contamination of money in convincing voters of the merits of their chosen candidates. The amendment to the 1951 Act that excluded from its purview whatever sum of money a sponsoring party spends on its candidate is not the only sanctioned loophole that encourages disrespect for the law of the land, and invites contempt for the manner in which many members reportedly win their seats.

The off-quoted lines about the best form of government being that which is best administered is disingenuous. Administration is important, but there is more to government than ad-

ministration. Even P.J.O'Rourke, the iconoclastic American author of *Parliament of Whores*, says (in a chapter titled "National Busybodies"), "Government is not a machine with parts, it's an organism." Government must capture the imagination, it must inspire confidence, it must hold the nation together, and reflect its rich diversity. If smooth administration were all that mattered, Indians might have been satisfied with a bureaucratic regime such as the British installed.

A nation has emotional needs that transcend its social and economic requirements. Only an elected legislature can meet that need. This intangible aspect acquires heightened importance in a society in which political parties are known by their pictorial devices, and political leaders are so often deified.

Viewing the Lok Sabha from any of the galleries can be an instructive experience, not necessarily because the members impress by their innate dignity or grasp of parliamentary procedure, but because of the sheer physiological and sartorial variety of an assemblage that presents India in microcosm. Dr Jakhar has a point when he says that "the Parliament today may not reflect the so-called cream of the nation (as it is said it did in the olden days) but it presents a cross-section of the country"

No other form of government can lay claim to that attribute. Parliament is not perfect. But the pageant of Parliament is the nation on parade. So long as the pageant goes on, vibrant even in its tumult and turbulence, we need not fear for the nation's survival.

PART - III

**COUNTRY PROFILES
AN OVERVIEW OF
WORLD PARLIAMENT**

ALBANIA

Introduction

The Republic of Albania, which was known as People's Socialist Republic of Albania till 1991, is a south eastern European Country. Tirana is its capital city. Known for its ancient civilization, this country was subjected to foreign invasions from time to time. With Ottoman conquest (1385-1417) began the Turkish occupation which lasted upto 1912. The Albanians revolted against them in 1443-68 under the leadership of thier legendary hero George Kastrioti or Skanderbeg, as he is popularly known. On 28th November, 1912, after more than 400 years of Turkish rule, Albania declared its independence under a provisional government. The country was occupied by Italy in 1914 but its independence was restored in 1920. A republic was proclaimed in 1925 and Ahmet Beg Zogu was elected persident. Later on, in 1928, he was proclaimed as king Zog and was in power till 1939. Then Albania became part of Italy for four years. Albania was occupied by German forces from 1943 for one year and later they had withdrawn. A provisional government was formed in 1944. By that time, the Communist Party of Albania (renamed in 1948 as the Albanian Party of Labour) led by Enver Hosha had emerged victorious from year long civil war against various national groups. A Communist dominated provisional government with Hosha as Prime Minister on 11th Jan, 1946, formally proclaimed the country Republic. In the subsequent four decades Albania has remained a hardline Stalinist State. A new Constitution was adopted in December, 1976, declaring Albania a People's Socialist Repub-

lic and reaffirming its policy of self-reliance. In late April, 1991, an interim Constitution replaced that of 1976. The country was re-named as Republic of Albania.

Constitution

After adopting an interim Constitution in April, 1991, the People's Assembly appointed a Commission to draft a new Constitution. On 30 April, 1991, the People's Assembly adopted the law on the Major Constitutional Provisions of the People's Assembly of the Republic of Albania, which in effect, is an interim Constitution and freedom to the citizen proclaims Albania to be a Secular State with guarantee of religious

According to articles 1-9 of the interim Constitution, the Republic of Albania is a Parliamentary republic. The fundamental Principle of State organisation is the separation of Legislative, Executive and Judicial powers. The people exercise their power through their representative organs, which are elected by free, universal, direct and secret ballot.

Legislative power is vested in the People's Assembly; the Head of the State is the President of the Republic. The Supreme Body of executive power is the Council of Ministers. Judicial power is exercised by courts, which are independent and guided only by the provisions of the law.

Albania recognizes and guarantees those fundamental rights and freedoms that are proclaimed in international law which includes those of national minorities. Judicial norms must be applied equally to all state bodies, political parties and other groups and organisations. All citizens are equal under the law.

Political pluralism is a fundamental condition of democracy. Political parties are entirely separate from the State and they are prohibited from activities in military bodies, state ministries, diplomatic representations abroad, judicial institutions and other bodies.

The People's Assembly

According to articles 15-23, the People's Assembly is the Supreme body of the State power and the sole law-making body. It defines the main directions of the domestic and foreign policies.

It approves and amends the Constitution and is competent to declare war and ratify or annul international treaties. It elects its Presidency which composes of a Chairman and two Deputy Chairman. It elects the President of Albania, the Supreme Court, the Attorney General and his or her deputies. It controls the activity of State radio and television, the state news agency and other official information media.

The People's Assembly is composed of 250 deputies. They are elected for a term of four years. It meets in regular session no less than four times in a year. Elections are held by free universal direct and secret ballot.

The Government

The president of the Republic is Head of State and is elected by the People's Assembly. Executive authority is held by the Council of Ministers, whose chairman is Head of Government. The Chairman of the Council of Ministers is appointed by the President. Ministers will be nominated by the President upon the Chairman's recommendation.

Political Organizations

(1) Agrarian Party (2) Albanian Communist Party (3) Albanian Green Party (4) Albanian Liberal Party (5) Albanian National Democratic Party (6) Albanian National Union (7) Albanian People's League Party (8) Albanian Republican Party (ARP) etc.

ANGOLA

Introduction

People's Republic of Angola, a formerly Portuguese colony, became independent on 11 November, 1975. After a prolonged struggle, the People's Liberation Movement of Angola (MPLA) and the National Union for the Total Independence of Angola (UNITA). The two major political groupings agreed to put an end to their rival claims to power and seek a popular mandate. But the agreement broke down. As a result of the continued clashes between the two groups, MPLA gained control over the Capital and the other factions had to retreat to the Countryside. After talks in Lisbon in 1990, a peace agreement between the government and the insurgent UNITA was signed which provided for the politico-military mission, backed by the United States, erstwhile Soviet Union, and the Portuguese experts to supervise the ceasefire under UN monitoring.

Constitutional Set-up

The Constitution which was adopted in 1975, was dedicated to eliminate the vestiges of Portuguese colonialisms. This Constitution provides various guarantees of individual freedom and prohibits discrimination based on colour, race, ethnic identity, sex, place of birth, religion, level of education and economic or social status. The Constitution also promises freedom of expression and assembly. The Constitutional revision of 1976 and 1980 more clearly establish the national goal of a revolutionary socialist, one party state. The revised Constitution vests sover-

eighty in the Angolan people, guaranteed through the representation of the party, and promises to implement "People's Power". It emphasizes the pre-eminence of the party as policy-making body and makes the Government its subordinate. Government officials are responsible for implementing party policy. Economic development is based on socialist model or co-operative ownership. Each individual is responsible, among other things, for voting in official elections, and serving in Public Office if appointed or elected and working, which is both a right as well as duty and generally aiding in the socialist-transformation. The Constitution explicitly prohibits foreign military bases on Angolan soil or affiliation with any foreign organisation.

The executive authority vests in the President, his ministers and the Defence and Security Council. The President is selected as Head of the MPLA-PT (*partido de Trabalho*) by the Political Bureau. President's authority is derived first from his status as Head of the MPLA-PT and then from his pre-eminence in government. The President could also designate an acting President from among members of the MPLA-PT Political Bureau, but if he dies or his successor would be chosen by the Central Committee. The Defence and Security Council and the Political Bureau, both chaired by the President, are the most powerful decision-making bodies within the government and party.

Parliamentary System

The principle of people's power is enshrined in the 318-member People's Assembly which replaced the Council of the Revolution as the nation's legislature in 1980. The main purpose of the People's Assembly was to implement some degree of participatory democracy within the revolutionary state and to do so outside the party confines. People's Assembly delegates need not be party members and in fact many were not. The Supreme organ of state, the People's Assembly comprises 318 members (including 29 alternate members) chosen by electoral colleges, composed of representatives elected by the people. The Assembly's tenure is for five years. In March, 1991 the Government introduced far-reaching amendments, providing for the establishment of a multi-party democracy (no other political party apart from the ruling MPLA-PT, was permitted earlier). The term of the Assembly's deputies and

the legislative electoral system were yet to be established.

Electoral and Party System

The first multi-party elections to the 206-members popular Assembly were held in September 29-30, 1992 in accordance with the peace accord of May, 1991. Till then one party system was in vogue since 1976 and had an indirect system of elections with Provincial Assemblies forming electoral college for elections to the Popular Assembly. The Provincial Assemblies were also elected by an electoral college and meeting at workplaces and in neighbourhood.

In the Parliamentary Elections held, MPLA was declared winner having polled 53.74% votes while UNITA could muster only 34.1%. The second round of Presidential Polls is yet to take place as neither candidate could muster more than 50% of the votes. Dos Santos : 49.57 and Jonas Savimbi : 40.07%.

ARGENTINA

Introduction

Argentina, one of the world's largest countries, occupying a large area of the Southern part of America owes its name to the latin word "argentum", meaning silver. It remained under Spanish rule for about two hundred years. The latent desire for independence culminated in intermittent civil wars and foreign interventions resulting in the declaration of independence in 1816. The full process of the national organisation ended with the proclamation of the Argentine National Constitution in 1853, which is the fundamental charter of the present Republic of Argentina.

Argentina is characterised by a fundamentally European culture derived from 16th century Spanish settlers and large scale immigrations from Italy and other European countries. It is an active member of the organisation of American States and of the United Nations and of several fora of developing countries.

Constitutional System

The Argentine Constitution begins by stating that the Argentine Republic adopts for its Government the representative, republican and federal form. That is to say, power arises from the people, who govern through their representatives and its political organization is that of a democratic and pluralist Republic, where prevail fundamental liberties enshrined in the same Constitution,

in the Declaration of Human Rights and in all documents, treaties and international conventions which have now been consecrated by the international community through the United Nations Organisation.

Federal Organisation of the State implies that power is decentralised, permitting the existence of various States : a federal or national State and the States called Provinces. The Constitution in adopting the Federal form permits the co-existence of the national powers and authorities with provincial powers and authorities.

In other words, the Federal organization is part of a Union, with a sovereign State (the national State) formed by autonomous but not sovereign States, which are the Provinces. Within this structure, the national Constitution is the Supreme Law and the Provinces, though empowered to adopt their own Constitutions, must do so subordinating them to the National or Federal Constitution.

Government

The organisational outline of power in the National State and the provincial States is the tripartition of powers; that is to say : Executive power, Legislative power and Judicial power.

The Executive power is vested in a citizen with the title President of the Republic, elected through indirect election, that is to say, through an electoral college, whose members are elected directly by the people. He holds office for a term of six years and cannot be re-elected except after an interval of one term counted from the date he ceases in his duties. He has wide powers, becoming what is known in constitutional law as a strong Executive power. He is assisted in his duties by eight ministers, who must sign, with him, according to their area of competence, the different acts and dispositions of the Government. The President dismisses and removes these ministers at his will, without the intervention of any of the other powers. Among other powers, he has the power to co-legislate, as once a law is passed by the Congress, he must promulgate its coming into force. However, the Constitution contemplates the automatic promulgation if, after a brief period,

the Executive has not proceeded with its promulgation. He has also the power to veto partially or fully the laws sanctioned by the Congress and the Congress, in its turn, has the power to insist on its sanction by two-third majority of its members present, in which case the will of the Congress prevails. He inaugurates every year the sessions of the Congress, which begin on the 1st May and can extend the ordinary period of the sessions, which end on thirtieth September or can summon extraordinary sessions. In the case of extraordinary sessions the Congress can only deal with the bills included in the message of convocation.

The Vice President of the Republic presides over the Senate, who is elected together with the President of the Republic and in the same manner and replaces the President in case of his temporary or permanent absence.

In case of vacancy in the office of the President of the Republic, the Vice President succeeds him and in case of vacancies in both offices, the Provisional President of the Senate. In case of his disability or death, he is succeeded as head of State by the President of the Chamber of Deputies and in his absence, he will be succeeded by the President of the Supreme Court of Justice of the Nation. When the Executive Power is discharged by any one of the last mentioned three officials, the election of a new President of the Republic must take place within a very short period of time.

The Judicial Power is vested in a Supreme Court of Justice of the nation, consisting of nine members, who are appointed by the President of the Republic, with the approval of the Senate, as is the case for all Appellate Chambers and lower courts established by the corresponding law. To be a member of the Supreme Court one must be a lawyer with eight years of practice and possess the qualifications required to be a senator.

Legislative set up

The Congress, or the Legislative Power, consists of two Chambers : the Senate, consisting of two senators for each Province and two for the Federal District, who represent, respectively, their provinces, as a Federated State and the Federal Capital or

Federal District, which is the seat of the national authorities. At the moment, the Republic consists of twenty three provinces and the Federal District. Thus it consists of 48 Senators. They serve for nine years and one-third of the Senate is renewed every three years. The minimum age to be a Senator is 30. He must have been a citizen for at least six years and must be a native of the province that elects him or have two years residence therein preceding the election.

Apart from its legislative function, the Senate has certain functions of cogovernment with the Executive, as it must give its agreement to the appointment of judicial magistrates, ambassadors of the diplomatic corps and ranks in the higher grades of the armed forces, among others.

The Chamber of Deputies is composed of representatives directly elected by the people of the provinces which form the Republic and are elected through direct vote by a simple majority of the votes.

A deputy must at least be twenty five years of age, have been a citizen in the exercise of such rights of four years and be a native of or have resided for two years preceding in the province that elects him. The term of office of a deputy is four years but one-half of the chamber is renewed every two years.

Electoral System

At present for the election of deputies, as well as for the electors of the President and Vice President of the nation, a system of proportional representation exists, which enables the parties to have their representatives in the Congress on the basis of the number of votes obtained by them in the elections.

The Senators are elected by the Legislatures of their respective provinces, while those of the Federal Capital are elected by an electoral college.

Political Parties

The two largest political parties in Argentina are the Radical Party (Union Cívica Radical, UCR) Founded in 1890, and the

Peronist or Justicialist Party (PP) that came into existence after the political process of the 1940s. Both parties are widely supported by the population. The UCR was in the past traditionally supported by urban middle class, while the PP, by the labour force. A small third party, the UCEDE, is to the right center of the political spectrum. Some smaller parties, including regional ones, occupy various positions in said spectrum.

In 1983 democracy was restored by popular demand. Since then Argentina has had two elected civilian Governments and the Congress has been restored to full working order. In the last elections for President held in 1989, Dr. Carlos S. Menem became the new head of state.

AUSTRALIA

Introduction

Continental in size, the sixth largest country on the earth, the Commonwealth of Australia possessing great natural wealth, a highly resourceful population and an increasingly affluent economy, Australia or the Commonwealth of Australia, is a federation consisting of six states and two territories. Since World War II, Australia has developed into a major regional force in the South-West Pacific. It is an independent member of the Commonwealth.

A recurrent theme in Australian history from the first British penal settlement at Sydney in 1788 to the early 1970s, has been the need for more people. Seen from strategic point of view, some Australians have seen it as "Populate or Perish". Australians have always thought that their population is inadequate. On Jan., 1901, the British colonies of New South-Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania were federated under the name of "Commonwealth of Australia", the designation of "colonies" being at the same time changed into "states" except in the case of northern territory, which was transferred from South Australia to the Commonwealth as a "territory" on Jan., 1911. For nearly one hundred and fifty years, first as separate colonies and after 1901 as a Commonwealth with a national identity, Australians were exclusively dependent on the British naval power for their defence. In the post-war era, Australia has strengthened its ties with other countries.

Australia is a federation of six States and two territories. The Australia Acts of 1986 removed residential powers of the British Government to intervene in the Government of Australia or the individual State. The form of Government at both the federal and State levels is representative parliamentary democracy. Executive power is formally vested in the Governor at State level and the Governor-General at the federal level, who acts on the advice of a Council of Ministers chosen from amongst the Members of Parliament. The Governor or Governor-General appoints the head of Government (Premier or Prime Minister), and on the latter's recommendation, other ministers. By convention, the leader of majority party (or coalition of parties) in the lower House is chosen to head the government and retains office so long as he or she enjoys the confidence of majority in the House.

Constitution

The federal Constitution was adopted on 9th July, 1900 and came into force on 1st Jan., 1901. Since then, though amended several times, its basic framework remains unaltered. It is modelled on the British and American Constitutions. From the British model, they have adopted Parliamentary system of Government, under which the Cabinet is responsible to the Legislature. From the United States, they adopted a decentralised, federal system of Government, a system in which legislative and executive powers are divided between the federal and the State Legislature. The fundamental rights and liberties of citizens, which are usually part of other constitutions, are not included in the Australian Constitution. As in Great Britain, these are presumed to exist in so far as they are not expressly abridged by statutes or by administrative discretion. About three-fourths of the 128 articles contained in the first three of the Eight Chapter in the Constitution deal with the powers and duties of the Legislative, executive and judicial branches of the federal government. The remaining portion of the Constitution covers fiscal and trade matters, relations between federal and State Governments, Conditions under which new states can be established and procedures for amending the constitution.

Parliamentary System

The Federal Parliament consists of the Governor-General

and two chambers elected by universal adult suffrage. The Senate has 76 members (12 from each State and two from each of the mainland territories). They are elected by a system of proportional representation, for six years when representing a State, with half the seats renewable every three years, and for a term not exceeding three years when representing a territory. The House of Representatives has 148 members elected for three years from single-member constituencies using a system of preferential voting.

The legislative powers of the two Houses of Parliament are equal except that proposed laws appropriating revenue or imposing taxation can be introduced only in the House of Representatives and the Senate may not amend proposed taxation laws or proposed law appropriating money for the ordinary annual services of Government. The Senate may reject any bill, including those that it may not amend, and may request amendments of the later. The Constitution provides a scheme for the resolution of deadlocks which might arise in the event of a disagreement between the Houses in which the Senate twice fails to pass a bill received from the House of Representatives. Under certain specified conditions, the Governor-General may dissolve both House, in which case elections are held for all the seats in both Houses. This double dissolution provision is the only exception to the general rule of fixed terms for Senators.

As is the case in other Parliaments, the Parliament of Australia also possess the power to conduct inquiries into the subject matters falling within its jurisdiction and on which it is required to legislate. This power is exercised by the Parliament not by itself but through its Committees. Bicameral Parliament of Australia also functions through a number of Standing and Select committees individually of each House and jointly of both Houses.

While the Senate has 23 Standing Committees—most important being committee of the whole House. the House of Representatives has 10 permanent Committees. These Committees cover a wide spectrum of governmental activities. There are certain Committees common to both House which when sit together are called Joint Committees. These are Publications Committee, Library Committee and the House Committee. The Constitution specifies the matters on which the federal Parliament has exclusive powers

to legislate and those in which it has concurrent powers with the States. When a state Law is inconsistent with a valid federal law the later prevails.

Electoral and Party Systems

Every Senator or Member of the House of Representatives must be a subject of the Queen, a major, possessing electoral qualifications and have resided for 3 years in Australia. The franchise for both the houses is based on universal suffrage. A salient feature of the electoral system is compulsory voting which was introduced in 1925. If a member of a state legislature wishes to be candidate in a federal election, he must resign his state seat.

Political Parties

The Commonwealth of Australia is a multi-party with 3 main political parties having sizable representation in the Federal Parliament. Elections held on 13 March 1993 saw the ruling labour party returned to office. Votes are still being counted. Currently the ruling Labour Party has won 77 seats, the Liberal Party 40; the National Party 15; and Independents two in the House of Representatives. The Senate figures will take further time to count due to the preferential voting system. Figures in the previous Parliament were; Labour 32; National 4; Tasmanian Independent 1; and West Australian Green 1.

AUSTRIA

Introduction

The name Austria brings forth visions of Ski slopes, music festivals, Palaces, Castles and Churches and conjures up memories of a glorious past. It reminds one of the charm of old Europe.

The modern Republic of Austria was proclaimed on 12 November, 1918. It was a direct descendant of the Habsburg empire which collapsed in 1918. It survived as an independent state for only twenty years. In 1938, Adolf Hitler annexed Austria in the German Reich as Ostmark. In 1943, in the meeting of the Foreign Ministers of the Principal allies — the Soviet Union, the United Kingdom and the United States — Austria was recognised as victim of nazi aggression. The Allies expressed their intention to liberate Austria and establish it as a free and independent State. The allied armies finally liberated Austria in 1945, and the Republic of Austria was re-established in the Spring of 1945. But again it was occupied by American, French, British and Soviet military forces and remained so until, 1955. In 1955, Austrian State Treaty was signed which led to the withdrawal of all occupation forces and accorded international recognition to Austria as a sovereign, independent and democratic state.

Constitutional System

In Austria, constitutional development has undergone several changes. After the demise of Habsburg monarchy in 1918, a new Constitution was proclaimed in 1920. The 1920 Constitution established Austria as democratic federal republic. It established

executive, legislative and judicial branches of the Government. Austrian Constitution guarantees equality before the law, prohibits discrimination on account of birth, sex, status, class or religion. Amendments to the Constitution can be made through laws designated constitutional laws or through constitutional provisions. The constitutional amendment can be carried only by a two-third majority vote.

Federal President is the ceremonial Head. He is elected for a six year term by universal suffrage. He can enjoy maximum two terms of office. The President normally acts on the advice of the Council of Ministers legacy the Federal Chancellor, which is responsible to the Nationalrat (national councils). The President has the power to prorogue and under certain conditions dissolve nationalrat. He appoints the Chancellor and swears in Provincial Governors. On the advice of the Chancellor he names the Cabinet. The President has power to issue ordinances during emergency.

Government

The Head of the Government is the chancellor who is appointed by the federal President. He heads federal chancellery and conducts government affairs alongwith the Cabinet. Minister who are appointed by the Federal President on the recommendation of the Chancellor. The Cabinet can be dismissed by the Federal President and Nationalrat. State Secretaries are appointed in the same manner as Ministers.

Parliamentary System

Austria is divided into nine provinces. Each province has its own Provincial Assembly and government. Legislative power is held by the bicameral Federal Assembly. The First Chamber Nationalrat (National Council) has 183 members, elected by universal adult suffrage for four years on the basis of proportioned representation. The second Chamber Bundersat (Federal Council) has 63 members elected for varying terms by the Provincial Assemblies.

Bundersat (Federal Council) represents the federal provinces. Its seats are divided between the parties according to the number of seats they hold in Provincial Assemblies and are held

during the life of the provincial government which they represent. Each province in turn provides the Chairman for six months.

For certain matters of special importance the two chambers meet together. This is known as 'Bundesversammlung'.

If national Council passes an explicit vote of no confidence in the Federal Government or its members, the Government or the Minister concerned will be removed from office. All new acts have to be read and put to vote in both Houses. A new bill goes first to the National Council where it has three readings, and then to the Federal Council where it can be held up but not vetoed.

The Landtag (Provincial Assembly) exercises the same functions in each Province as the National Council does in the State. The members of the Landtag elect a Government consisting of a Provincial Governor and his Councillors. They are responsible to the Landtag. the legal and administrative competence of both national and provincial governments is clearly defined in the Constitution.

Committee System

There are about 20 standing Committees to study legislation. In addition, there is Main Committee and some investigating Committees. Nationalrat members decide the size and party make up of each Committee. The major Committees are Main Committee and Standing Sub-Committee. Both are authorised by the Constitution to deal with administrative work of nationalrat.

Party System

In Austria, governmental decisions are strongly influenced not only by political parties but also by certain interest groups like Chambers of Commerce, agriculture etc. The major political parties are: socialist Party of Austria (SPO) and Austrian People's Party (ÖVP). These parties dominate political life of Austria. Minor political parties are Freedom Party of Austria (FPÖ) and the Communist Party of Austria (KPÖ). Other political parties are : The Green Alternative and United Green Party of Austria (UGP).

BANGLADESH

Introduction

The territory comprising Bangladesh was inhabited in the pre-historic era by the proto-Australoids and the Proto-Mongoloids, later the Dravidians, Aryans and Mongolians came. Islam spread in the eleventh century through Muslim missionaries, Arab traders and through conquests. For about 500 years, the region had been under the rule of the Turks, Afghans and the Mughals. By the end of the 16th century, the Europeans began arriving. The rule by the British began in 1757 and continued till 1947, when the sub-continent was partitioned into India and Pakistan. The territory now comprising Bangladesh formed the Eastern wing of Pakistan. After 9 months of war against the Pakistani aggressors in which the Indian Army as well joined hands with the freedom fighters of East Pakistan, the country was liberated with the surrender of the Pakistani Army on 16th December, 1971. The first constitution of the country framed in 1972, provided for parliamentary system of government. In 1975, the constitution was amended and a one-party presidential system was introduced. A further amendment took place in 1978, providing for a multiparty presidential system of government. On 24 March, 1982 the then Army Chief Lt. General H.M. Ershad.....overthrew the then elected President Justice Abdus Sattar and assumed all powers of the government as Chief Martial Law Administrator. The government of Lt. General H.M. Ershad was ousted by a massive country wide democratic movement and was forced to hand over power to Act-

ing President Justice Shahabuddin Ahmed on December 6, 1990. A free and fair election was held on February 27, 1991 under the caretaker government headed by Justice Shahabuddin Ahmed. BNP emerged as the single largest party in the parliament polls. BNP Chairperson Begum Khaleda Zia was appointed the Prime Minister by the Acting President Justice Shahabuddin Ahmed on March 19, 1991 and a council Ministers was formed with 11 Ministers and 22 State Ministers. The ruling Bangladesh Nationalist Party (BNP) won five of the 11 parliament seats where by-elections took place on September 11, 1991. With the by-election results, the BNP's strength in the 330-seat parliament has been raised to 170 which is an absolute majority. The Country got a parliamentary form of government after a lapse of 16 years by the 12th constitutional amendment Bill introduced by Prime Minister Begum Khaleda Zia and passed unanimously by the parliament on August 6, 1991. The referendum was held on September 15 to meet the constitutional requirement for getting the President's assent to the 12th amendemt Bill. The people of Bangladesh have given clear verdict in favour of the parliamentary form of government in the referendum and Begum Khaleda Zia was sworn in as Prime Minister under the parliamentary form of government on 19th September, 1991 and formed her cabinet under the new system with 21 Minster, 15 state Ministers and 3 Deputy Ministers. Mr. Abdur Rahman Biswas, a BNP nominee was elected President by majority vote of the MP's on October 8 and the was sworn in as President on October 9, 1991.

Parliament and Government

The legislature of Bangladesh is a unicameral one called the "Jatiya Sang said." It has a strenght of 300 members directly elected every five years by citizens of Bangladesh over 18 years of age. There are 30 seats reserved for women members who are elected by the parliament. The Parliament acts as the legislature and approves the budget. It can amend the constitution with the support of at least two thirds of the 330 members in the house. A simple majority is needed to approve laws and pass the annual national budget. The government remains accountable to the parliament elected by direct popular votes. The transperency of all the transactions of the governmetns is ensured by the parliamentary standing Committee for various ministries consisting of mem-

bers from all parties which acts as watch dogs over the government. The Prime Minister who represents the majority in the house is responsible to the parliament. The Ministers drawn from MPs of the majority party in the parliament are on the other hand responsible to the Prime Minister who can appoint no more than one fifth of the members of the cabinet from amongst the technocrats to hold charge of Ministries requiring particular specialisation.

In the parliament, all money bills require presidential recommendation before they can be introduced for debate in the parliament. Bills passed by the parliament are sent to the president for approval. If the President does not return a Bill to parliament within fifteen days, it automatically becomes laws.

Major Political Parties

The main parties in Bangladesh are the Bangladesh Nationalist Party founded by late President Shaheed Ziaur Rahman and now led by its chairperson Begum Khaleda Zia and the Awami League founded by Sheikh Mujibur Rahman now headed by its chairperson Mrs. Sheikh Hasina Wazed. The other groups who are represented in the parliament are the Jatiya Party, the Communist Party of Bangladesh the National Awami Party the Workers party, the Jamaat-E-Islami and Jatiya Samajrantrik Dal (National Socialist Party).

BELGIUM

Introduction

Prior to becoming an independent State in 1830, Belgium was a part of Netherlands under the treaty of 1815 which resulted in an end of the Empire of Neoplean Bonaparte and his exile to St. Helena. The Belgium Constitution of 1831 legitimises the political and administrative structures, at the apex of which stands the institution of Crown. The administrative structure operates at the national, regional, provincial and commune level.

Constitutional and the Governmental set up

(1) Crown

The succession to the throne is based on the direct line of the male heirs of the first king. In the absence of male heirs, the monarch nominates his successor with the consent of Parliament. If the successor happens to be a minor upon the death of the King, Parliament meets in joint session to arrange for the regency and guardianship of the new king during his minority till the King attains the age of 21 year. In the interregnum between the King's death and the formal installation of his successor, the constitutional prerogatives of the king are collectively exercised by the Cabinet or the Council of Ministers. The king is the Head of State and has Veto power. The king convenes, dissolves, or prorogues Parliaments; appoints ministers, civil servants, judges, magistrates, envoys and declares war and peace. the king serves as an impor-

tant national symbol.

Cabinet

The Cabinet is the real seat of power. It functions as the top supervisory and co-ordinative body of the executive establishment, and is chaired by the Prime Minister. Usually the ministers are drawn from either House of the Parliament and retain their legislative seats and privileges while serving in the Cabinet. Other persons having exceptional political or professional qualifications can also be appointed as ministers. Members of the royal family cannot become ministers. The number of ministers varies from time to time. The Constitution stipulates that Cabinet must be composed of an equal number of Dutch-speaking and French-speaking ministers, except for the Prime Ministers, who generally represents the largest political party in the country. The principle of linguistic equality is not applicable to junior ministers who, although appointed from among the members of Parliament, are not members of the cabinet and after their appointment as junior ministers, must have to relinquish their parliamentary seats. The Cabinet is the hub of the political parties represented in Parliament. When named to the Cabinet, the leaders of the political parties have to give up their party residencies but need not absent themselves from party affairs. The Cabinet is collectively responsible to the Parliament, which has the power of oversight over the executive wing. Cabinet members vote only in the House to which they belong. When a government falls either by the loss of Parliament confidence or internal dissension, the outgoing Prime Minister may advise the King to dissolve the legislature. The King may or may not comply with the advice. If the King believes a new Government can be formed without elections or if he feels that the elections can be delayed, he may do so. In any event, the King must appoint an informant (*informateur*)—an influential politician—to explore the possibilities of forming new government. The informant must be a seasoned political leader capable of commanding a majority or near majority in Parliament. Based on the informant's findings, the King chooses a formator (*formateur*), generally the same person as the informant, whose role can be described as the Prime Minister designate. After the Cabinet formation is over, the King formally approves it. The formator must then pres-

ent the Government programme to Parliament for a vote of confidence. After an affirmative vote, the new government is formally installed.

Parliamentary system

The Constitution vests legislative authority in the King and the bicameral parliament. The Parliament consists of the House of Representatives and the Senate. Each House elects its own President at the beginning of the session, who acts as an impartial Speaker, although he is a party nominee. Both Chambers are convened in October for a regular session that lasts 60 to 80 days. Bills may be initiated by the Cabinet or by either House, and those relating to finance and national defence must be discussed in the Lower Chamber. Other Bills can go from the initiator to the other House, although usually they are introduced first in the Lower House where, as in the Senate, they are referred to Committees formed parallel to Govt. ministries. The Principal budget must be voted out by December 25. Parliament is also responsible for fiscal supervision of all the government bodies, including those on the commune level. The functions of Parliament are mainly two-fold in nature *i.e.* enact bills and to oversee the work of the executive branch through interpellations of cabinet ministers. The Parliament also has the right to impeach ministers and to bring them before the court of Cassation, the Supreme Court, for trial held in the presence of both Houses. The lower House, known as Chamber of Representatives has 212 deputies, who are directly elected for a four year term. The Senate has 182 members (including the Crown Prince-heir to the throne). All the Senators must be over 40 years of age, with the exception of a small number of members of the royal family (the King's sons or the princes in the line of succession) who become Senators by right at the age of 18. The Senators also serve a term of four years.

Both the Houses have their respective Committees which are formed parallel to the government ministries. The membership of these committees is proportionate to the political composition of the ruling coalition. Bills other than those on Financial and National Defence (which are introduced only in the Lower House) are introduced in both the Houses and are referred to these Committees for detailed discussion.

Electoral System

Suffrage is universal for citizens of 18 years and above. Voting is compulsory. Elections are held through direct system both for the Senate and Chamber of Representatives with a List System with proportioned representations (d'Hondt method). Each elector votes for the head of the list or an individual candidate within the list. Seats won are allocated to candidates receiving atleast the minimum number of votes. The Senate consists of members elected partly directly and partly indirectly. The number of Senators elected directly is equal to half the number of members of the Chamber of Representatives. The Constituent body is similar to that which elects the Deputies to the Lower House.

Party System

Belgium is a multiparty polity with it's parties/groups gaining representation in the House of Representatives after the General Elections held in November, 1991. Some of the significant political parties are : Flemish Christian Socialist Party (CVP); Flemish Freedom and Progress Party ; Flemish Socialist Party; Francophone Liberal Reform Party and Francophone Socialist Party (SPA) The Country is presently being ruled by a four party coalition.

BENIN

Introduction

The Republic of Benin is a narrow stretch of territory in West Africa. Its territory was occupied by France in 1892 and constituted a part of French Africa in 1904 under the name Dahomey. It was known by the same name until 1975. It became an independent republic within the French community on 4th December, 1958 and acquired complete independence on 1st August, 1960. The history of Benin since its independence was marked by chronic political instability. There were five successful coups involving the army. There was also periodic regional unrest.

In the sixth coup since independence, Maj. Mathieu Kerekou came to power on 26th October, 1972 and proclaimed a Marxist Leninist State which was named as Benin on 1st December, 1975, by changing its original name Dahomey. In December, 1989 the leadership abandoned Marxism-Leninism and called a national Conference in February, 1990 which ushered in an era of pluralist democracy.

Constitutional System

A National Conference of the "Active Forces of the Nation" which was held on 25th February, 1990 voted to repeal the "*Loi fondamentale*" that was adopted in August, 1977. A new Constitution was approved in a national referendum on 2nd December, 1990.

Besides, guaranteeing the basic rights and freedom of citizens, the Constitution defines the functions of the main organs of the State. It upholds the principle of an independent judiciary and envisages the creation of an economic and social council and a broadcasting authority.

The President of the Republic is elected by direct universal suffrage for a period of five years. The President can have maximum two terms. The executive is responsible to legislature which is also directly elected.

The Constitution which was adopted in 1990, provided for separation of the powers of the executive, legislature and the judiciary.

For the purpose of administration, Benin is divided into six provinces which are further divided into 78 districts. Civilian prefects are appointed to govern the provinces which were earlier governed by military administrators.

Parliament

The legislative body of the Republic of Benin is a unicameral Assembly called National Revolutionary Assembly. It has a strength of 64 members. The first legislative elections took place in February, 1991, based on universal adult franchise.

Political parties/organisations

Since the beginning of 1990, a number of political leaders exiled since the time of Kerekou's accession to power, returned to Benin. In May former ruling party was replaced by the "*Union des forces du Progres*". Some of the other parties which secured seats in legislature are : *Mouvement pour la democratie et le Progres social* (MDPS), *Mouvement national pour la democratie et le development* (MNDD) etc.

At the elections held in February, 1991, 24 political parties fielded candidates and 17 gained seats in the legislature.

BOLIVIA

Introduction

Bolivia became Republic on 6 August, 1825. The President is the head of the State and Government. Executive Power vests in the President. He appoints the Cabinet and is responsible for the conduct of foreign affairs. He is empowered to issue decrees and initiate legislations. The Ministers of State conduct day-to-day business of public administration. The President and Vice-President are directly elected by universal suffrage for a 4 years. If no candidate wins an overall majority, the decision is made by the Congress which selects the next President from among the top three candidates.

As far as local Government is concerned, the republic is divided into departments, each of which is governed by a prefect appointed by the president.

Constitutional set-up

The Republic of Bolivia adopted its first Constitution on 19 November, 1826. Since that date, a number of Constitutions have been promulgated. Following the *Coup d'etat* of November, 1964, the Constitution of 1947 was revived. Before that, the Constitution of 1961 institutionalised the gains of 1952 revolution and adopted several measures like Universal Adult Suffrage, Nationalisation of Mines, Agrarian Reforms etc. Under the terms of Constitution of

1967, Bolivia became a Unitary Republic retaining representative democracy. It is under the Constitution of 1967 that Bolivia enjoyed a stable, elected and civilian democratic government and witnessed four general elections.

By tradition and Constitutional law, President is the strong executive. In emergency situations like internal turmoil, the President has the power to call a State of siege.

The executive Branch also includes a number of decentralized institutions and autonomous enterprises. By mid 1980s' the State had become a large but extremely weak apparatus. Reforms undertaken since 1985, under the guise of New Economic Policy reduced the size of the State Sector by privatising or decentralising State enterprises.

Parliamentary System

The Constitution of Bolivia provides for the bicameral legislative body called Congress. It consists of Senate having 27 members, 3 from each department and the Chamber of Deputies comprising 130 members. All the members of the Senate and House of Representatives are elected for a term of four years by universal adult suffrage which is based on proportional representation system.

The Congress generally meets for 90 sessions. It has the power to establish the monetary system and is responsible for approving all economic policies. Besides, the Congress enjoys several prerogative in the field of economic policy and political powers. The Chamber of Deputies elects Justices of the Supreme Court while the Senate hears accusations against members of the Supreme Court of justice.

Chamber of Deputies and the Senate have sixteen Committees. Each Committee has five members drawn from every party represented in the chamber. There is a Congressional Commission elected by the members of each chamber. It has to ensure that the Constitution and Civil rights are respected while Congress is not in session. It enjoys the same executive oversight capacity as Congress.

A decree issued in July, 1952 conferred franchise on all persons who had reached the age of 21 years whether literate or illiterate. Earlier the franchise had been restricted to literate persons. The voting age for married persons was lowered to 18 years at 1989 elections.

The major political parties are Movement of Revolutionary Left (MRL) and Nationalist Democratic Action (ADN).

BOTSWANA

Introduction

The Republic of Botswana, formerly known as Bechuanaland, was declared to be within the British sphere in 1885. In 1889, it was included in British South Africa Company, but was never administered by it. A Resident Commissioner was appointed in 1890. From 1900 was administered by High Commissioner for Basutoland, Bechuanaland and Swaziland. On annexation of British Bechuanaland to the Cape of Good Hope, the British Government favoured transfer of the Protectorate to BSA Company but there was protest against this proposal. Finally, an agreement was reached that Bechuanaland would remain a British Protectorate if it ceded a strip of land on the eastern side of the country for railway construction.

The first elections were held in the Protectorate in 1961. When executive and legislative councils were set up in the place of traditional resident commission. In 1965, the country's first general elections were held and on 30th September, 1966, Botswana was proclaimed as independent Republic within the Commonwealth.

Constitution

The Constitution of Botswana, adopted on 30th September, 1966, provides for republican form of Government headed by the President with three main organs—the Legislature, the Execu-

tive and the Judiciary. It contains a code of human rights, enforceable by the High Court.

The President is elected by universal suffrage for a 5 year term at general elections. The executive rests with the President who is responsible to the National Assembly. He is also the Commander-in-Chief of the armed forces. He appoints the Vice-President who holds ministerial office and deputies in the absence of the President. The President is the *ex-officio* member of the Assembly. He holds office for the duration of Parliament and nominates four members of the National Assembly.

Government

The Cabinet consists of the President, Vice-President and 10 other ministers appointed by the President. The Cabinet is responsible to the National Assembly.

The Government is advised by the House of Chiefs consisting of the Chiefs of 8 tribes who were autonomous during the regime of the British Protectorate and 4 members elected by Sub-Chiefs in 4 districts.

Local Government is carried out by 9 districts Councils, one city and 5 town councils.

Parliament

Legislature of Botswana consists of the President and the National Assembly. They have to consult House of Chiefs in certain matters. Legislative power is vested in Parliament. However, the President has power to withhold assent to a Bill passed by the National Assembly. If the same Bill is again sent to the President after six months, the President has either to assent to it or to dissolve Parliament within 21 days. The National Assembly consists of 40 members. Among these, 34 are elected by universal suffrage, and 4 by the Assembly, the Speaker and the Attorney General. However, the Attorney General does not have a vote. Elections are held to the National Assembly after every five years.

House of Chiefs

House of Chiefs consists of 8 *ex-officio* members belonging to major tribes, four members elected by Sub-Chiefs and three by

members of the House. Bills and motions regarding Chieftaincy issues and amendment of the Constitution have to be referred to the House of Chiefs which can have deliberation on these issues. It can also make representation to the President on matters affecting the ethnic groups or their organisations.

Political Parties/Organisations

The major Political parties whose candidates were returned to National Assembly in 1989 elections are : (1) Botswana Democratic Party (BDP) and (2) Botswana National Front (BNF). Other political parties are : Botswana People's Party (BPP), Botswana Independence Party (BIP), Botswana Progressive Union (BPU) and Botswana Freedom Party (BFP).

BRAZIL

Introduction

One of the richest and most dynamic Societies of the Third World, Brazil is the fifth largest country in the world and with a vibrant agro-economy and an ongoing liberal democratisation process, it has given the world word 'abertura' which means "an opening of democratisation".

Brazil was discovered in 1500 A.D. and remained a Portuguese colony settlement till it became "a kingdom" in 1815, an independent Empire in 1822 and a republic in 1889. The country was under the overall control of Armed Forces following a coup of 1964 till a civilian government took over again in 1985.

Constitution Set-up

Brazil has had a continued process of establishing political institutions providing for continuity. The First Republic of Brazil had five Constitutions—the last one framed in 1946. The Second Republic under the military regime which lasted for 21 years from 1964 to 1985, adopted a sixth Constitution in 1967 changing the formal name of the country from the United States of Brazil to the Federation Republic of Brazil (*Republica Federativa do Brasil*). The present Constitution, the eighth since independence from Portuguese in 1922, was promulgated in 1988. Brazil consists of 26 States and one Federal district with distinct administrative, legislative and judicial authorities and they have their own Constitu-

tions and laws agreeing with the Constitutional principles of the Union. The country is sub-divided into 4491 municipios and further sub-divided into districts. The 1960 from *Rio de Janeiro*, the national capital was shifted to Brasilia, a Federal district with 13 administrative Regions.

The Federative Republic of Brazil was constituted as a democratic State with power emanating from the people. Right to life, freedom, equality, security and property is guaranteed. Also guaranteed is freedom of thought, conscience, religious belief and expression as is privacy, freedom of association and the right to strike. The Federative Country's Executive power is exercised by the President of the Republic assisted by the Ministers of State. The Constitution may not be amended in times of national emergency, such as a states of siege.

Parliamentary System

Brazil has a bicameral National Congress. The Chamber of Deputies has 503 members elected for a four year term and the Federal Senate has 81 members from 26 States and 1 Federal district. The Senate term of office is eight years with elections after four years for one half of the members and after another four years, for the remaining two-third. The number of deputies is based on the size of the population. Both the Chamber of Deputies and the Federal Senate have their Presidents from amongst their elected Members. The National Congress after 1986 elections, was installed as the Constitutional Assembly in February, 1987,. In November, 1987, the Systematisation Committee of the Constitutional Assembly voted to reduce the presidential mandate to four years and to introduce a parliamentary form of Government. But in March, 1988, the Constitutional Assembly voted in favour of a President form of government with a mandate for five years. The Constitution as approved by Congress in September, 1988, had among 245 articles provision transferring many hitherto presidential powers to the National Congress.

Electoral and Party Systems

Elections in Brazil are by universal adult suffrage. The franchise was extended to illiterate adults in 1985. The President and the Vice-President are elected by direct ballot for a term of

five years. Presidential candidates have to secure 51% of the votes to win the elections otherwise second round of voting is held to elect the President between the two most voted candidates. Each state has a directly elected governor and an elected Legislature. Members of the chamber of Deputies are elected by a system of proportional representation for four years. Voting is compulsory for adults between 18 and 70 but it is voluntary from 16 and optional to illiterates and the aged above 70. The 91-members Federal Senate will have two-thirds of its members through direct election by the majority principle. Half of them are elected for an 8 year term in rotation. One-third of the Senate members are indirectly elected. Last elections were held in October, 1990 for governors of 27 States, territories and Federal District, 27 Senators (one-third of the Senate), 503 Federal Deputies and 1049 state Legislature deputies. The electorate who exercised their franchise, were about 84 million, to choose among about 70 thousand candidates representing 22 parties. Superior Electoral Tribunal is there with independent Regional Electoral Tribunal overseeing the conduct of Election to various bodies.

In 1985, through an amendment in the Constitution, free formation of political parties was allowed. National Congress, the present Chamber of Deputies has 503 members, hailing from as many as 19 political parties. Eleven of these parties have formed the *Movement National Parlamentarista* (MNP), *Partido do Movimento Democrático Brasileiro* (PMDB), *Partido da Frente Liberal* (PFL), *Partido Democrático Trabalhista* (PDT), *Partido de Reconstrução Nacional* (PRN), are some of the major political parties of Brazil. Transition from the democratic rule under Armed Forces to a Civilian government and to the present state was made possible through the traditional political awareness. It dates back to the times of Dr. Vargas who organised the rural based Social Democratic Party PSD and later on urban based Brazilian Labour party-PTB. Interest group politics with conservative groups like Military, Technocrats. Industrialists and Landowners and liberal groups like the Church, Labour and Students enliven the process of strengthening the political institutions.

BULGARIA

Introduction

The Republic of Bulgaria is situated in south-eastern Europe, in the Eastern half of the Balkan peninsula.

The country's territory covers plains, hills, valleys, mountains passes and deep rivers gorges. The highest mountain peak in Bulgaria, on the Balkan peninsula, is Moussala (2925m.) in Rila mountain.

From an independent Kingdom to a part of Ottoman Empire and then to the People's Republic after World War II and lastly to the Republic of Bulgarian, 1989 is the saga of the country's passage through history.

Constitutional set up

The Constitution of the Republic of Bulgaria was established by the Grand National Assembly on 12 July, 1991. The Constitution is the supreme law of the land and no other law shall contravene it.

The President is the Head of State. He embodies the unity of the nation and represents the State in its international relations. The President is assisted in his actions by a Vice-president. The president is elected directly by the voters for a period of five years by a procedure established by law. The Vice-president is

also elected at the same time and on the same ticket as the president, on the same conditions and by the same procedure.

The president and the Vice-president are eligible for only one re-election to the same office. Eligibility for president shall include any natural-born Bulgarian citizen, over 40 years of age and qualified to be elected to the National Assembly, who has resided in the country for the last five years preceeding the election.

There is a Council of Ministers consisting of a Prime Minister, Deputy prime Ministers and Ministers. Any Bulgarian citizen, qualified to be elected to the National Assembly is eligible for election to the Council of Ministers.

Parliamentary System

Bulgaria is a republic with a parliamentary form of Government. The National Assembly is the repository of the legislative authority and exercises parliamentary control.

The Grand National Assembly consists of 240 members and is elected for a term of four years. Any Bulgarian citizen who does not hold another citizenship, is above the age of 21 years, is not under a judicial interdiction, and is not serving a prison sentence, is eligible for election to the national Assembly.

The National Assembly elects permanent and *ad hoc* committees from among its members. The permanent committees aid the work of the National Assembly and exercise parliamentary control on its behalf. *Ad-hoc* Committees are elected to conduct inquiries and investigations.

Electoral and party system

The President, the Vice-President and the Member of Grand National Assembly of Bulgaria are elected through universal adult suffrage for a term of five and four years respectively.

After the break up of Soviet Union and the disintegration of the Communist party, Bulgaria witnessed the emergence of several political groups. In the Grand National Assembly the Bulgar-

ian Socialist Party and Coalition with 105 seats is the largest group. The major opposition groups include Union of Democratic Forces with 90 seats, Movement for Rights and Freedoms (MRF) with 24 seats and Parliamentary Group "New Union for Democracy with 18 seats. In addition there are three independent Members of Parliament.

CAMEROON

Introduction

Cameroon, a meeting ground for many of the major ethnic groups of the African Continent over the centuries, has evolved a stable democratic system giving priority to educate its citizens of their role in the model governance. High priority to integrated educational system laid a foundation for progress and true national unity, a concept fully understood by educated and economic elite of the Cameroonian society.

Cameroon was established as a German Protectorate in 1884, and later won over by invading British and French forces during the first World War. In 1922, the two segments of Cameroon came under the League of Nation mandates under the separate administration of France and Great Britain. In 1946, the mandates were converted into United Nations trust territories. 1958. A plebiscite under the auspices of the U.N. in the subsequent year held in the British trust territory offering a choice of uniting with one of the neighbouring countries saw the northern segments opting to join Nigeria. But the small British influenced Southern segment joined the larger French-influenced polity which was seen as a unique move in Africa. Problems imposed by the union of these two political entities, divided the republic along the lines of regionalism, ethnicity and colonial heritage. A long history of regional and ethnic division and long years of armed rebellion in certain areas gave a legacy of single political issue to achieve

national unity. And that has been the major political development in the Federal Republic of Camerron born in 1961 which evolved into united Republic of Cameroon with a remarkable degree of political stability.

Constitutional System

Cameroon's ever continuing measured efforts to erase the remaining divisions in Cameroon's multi-cultural society weigh upon the political system. In 1972, after an approval by a referendum, the Constitution of the united—Republic of Cameroon was promulgated. In 1984, the National Assembly approved a constitutional amendment to restore its original name Republic of Cameroon. The Cameroonian Constitution declared that the human being possesses inalienable and sacred rights and attachment to the fundamental freedoms embodied in Universal Declaration of Human Rights and the UN Charter. Both French and English have been made official languages. All citizens are equal before law. Bills to amend the Constitution may be introduced by the President of the National Assembly but cannot impair unity and integrity of the State. Executive power is vested in the President, the Head of the State, while the Prime Minister and his cabinet who look into the functioning of the executive are accountable to the President of the Republic who appoints them and defines a National Policy for implementation from, 1988. The Presidency has a single Secretariat general of the government and that of the President. Cameroon has 10 provinces, each with a Governor appointed by the President. Justice is administered in the name of the people. The Supreme Court Judges are appointed by the President assisted by the Higher Judicial Council. The Supreme court is empowered to uphold the Constitution in the absence of President either by death or in an incapacitated state and gives final judgements on appeals. There is a Court of Impeachment to remove the President or the Ministers for acts of treason endangering security of the nation.

Parliamentary System

The unicameral legislative body of Cameroon is Assemblée Nationale—The National Assembly. The 180-member National Assembly has a five year term and it may extend or shorten its term at the instance of the President. Normally, bills are passed by a

simple majority of those present. But, a second reading of the bill at the request of the President would require a majority of the Assembly as a whole. The National Assembly meets twice a year and each session lasts not more than 30 days of which one is budget session. It may be summoned to an extra-ordinary session lasting not more than 15 days. Bills may be introduced either by the President or by any member of the National Assembly.

Cameroonian Parliament has a viable Committee System. There are 5 permanent Committees and the members are elected for one year term. Each of the permanent committees covers activities of several ministries. At the start of the Parliament, *Ad-hoc* Standing Order Committee is formed. Special Committees and Inquiry Committees with specific term are also formed. The members are nominated by the Assembly when it votes on lists. Nomination lists are posted and ratified by Assembly after 24 hours unless 14 MPs oppose the list. The members are nominated in proportion to the group representation. Though there is no specific restriction on multiple membership, nominations are confined to maximum two. Committees can summon officials and Ministers for details which only they can provide. Every committee elect its Chairman. Chairmanship is distributed among parties according to their strength. Committee meetings are held only when the House sits and they are private meetings where decisions call for voting by absolute majority of members. Experts are associated with the functioning of the Committees.

Electoral System

The Cameroon Constitution provided for referendum to decide on certain reform bills liable to have impact on the national institutions. President of the republic may submit to referendum after consultation with the National Assembly. By virtue of Sovereignty vested in people, the people exercise their franchise, return the President of the Republic and members of the National Assembly by direct vote and it is universal suffrage. It may indirect in certain cases but it is over a secret ballot by persons aged 21 and above. Elections and suitability of Candidates and sitting members shall be governed by law. The President is elected from among candidates, who are atleast 35 with civic and political rights for a five year term by a majority of the votes cast. Presi-

dent may be re-elected. President of the Republic would be succeeded in the event of death or incapacity by the President of the National Assembly.

Political Parties

Till a Constitutional amendment permitting the formation of other political associations was adopted in December, 1990, the *Rassemblement démocratique du peuple Cameronnais* (RDPC) was the only party legally existed. Earlier in 1966, when one-party regime was established in Cameroon, the two governing parties and several opposition groups combined to form a single party, the *Union Nationale Cameronnais* (UNC). The only significant opposition party, the extreme left *Union des populations Camerounaises* (UPC) was finally crushed in 1971. In 1991, when parties were revived with legal sanction, political parties were granted legal recognition. SDF, MP, MSND, UFDC are the principal opposition parties.

CANADA

The Constitution of Canada

Canada's constitution comprises both written documents and unwritten conventions. The written constitution is embodied in the Constitution Acts, 1867-1982. The original legislation, entitled the British North America (BNA) Act, was an 1867 British statute which created the "Dominion of Canada", establishing a federal state with a Parliament modelled on the British system.

The BNA Act furnished Britain with the power to veto Canadian laws and to enact statutes affecting Canada. While, in practice, the Canadian government held control over internal revenue, taxation and trade, the BNA Act made no provision for an independent Canadian foreign policy regarding political matters, and allowed amendments to the constitution only with the consent of the British Parliament. In 1931, Britain passed the Statute of Westminster, which conceded full powers over foreign affairs and trade to Canada; however, the British Parliament retained ultimate control over the Canadian constitution.

In April, 1982, with the consent of both Parliaments, the Canadian constitution was repatriated, and the BNA Act was amended to become the Constitution Act. The Constitution Act, 1982, consolidated all previous BNA Acts, added an amending formula, and established a Charter of Rights and Freedoms. The Charter provided for basic democratic rights, and contained a "notwithstanding" clause that allowed Parliament or any provin-

cial legislature to over-ride its provision.

Under the amending formula, constitutional change may be achieved by two means. The approval of the federal Parliament and seven provincial legislatures in provinces representing more than fifty percent of the Canadian population would be required to alter the division of powers between the federal and provincial governments. However, amendments dealing with matters such as the composition of the Supreme Court, or the status of Canada's two official languages, would require unanimous consent. Ratification of an amendment by the federal Parliament and all ten provinces must be achieved within three years.

A further attempt was made to amend the constitution in 1992, when Canada's ten provincial governments and the leaders of four national aboriginal associations assembled a comprehensive package of constitutional amendments known as the Charlottetown Accord. The key elements of the Accord included recognition of the right of aboriginal self-government within Canada; the creation of an elected, effective and equal Senate; recognition of Quebec as a distinct society; the promotion of Canada's social and economic union; and re-balancing of the roles and responsibilities of the federal and provincial governments. However, in a national referendum on October 26, 1992, a majority of Canadians voted against the proposed reforms.

Federal and Provincial Legislative Authority

The Constitution Act, 1867, (formerly the BNA Act) divided legislative authority between the federal and provincial governments. The federal government was mandated to create laws for "peace, order and good government", and given exclusive control over, *inter alia*, criminal law, postal services, trade and external relations, money and banking, transportation, citizenship, Indian affairs and defence. Matters which fell within the purview of the provinces included property and civil rights, administration of justice, education, health and welfare, municipal institutions and matters of a local or private nature.

The Parliamentary System

The Canadian legislature or Parliament comprises the British monarch, an upper house, known as the Senate, and the

house of Commons.

The Monarch and Governor-General

The British monarch (at present, Queen Elizabeth II) is Canada's official head of state. In principle, executive power is vested in the monarch; in actual practice, the Queen has only a nominal role in Canadian government. Her duties are mostly ceremonial, and in her absence are performed by the Governor General, who is appointed by the Queen on the Prime Minister's recommendation.

Bills passed in the House of Commons and Senate do not become law until the Governor General has given royal assent. However, the Governor General is obliged to follow the wishes of Canada's elected representatives, since the Imperial Conferences of 1926 and 1930 dictated that the governor General is not a representative or agent of the British government and should therefore act only on the advice of the Canadian Prime Minister and Cabinet.

The Senate

The Senate, through which all legislation must pass before becoming law, is the Upper House of the Canadian Parliament. Its 112 members are appointed by the Governor General on the recommendation of the Prime Minister, and hold office until age 75 (those appointed before June, 1965 hold office for life).

The Senate's legislative powers are equal to those of the House of Commons, with two restrictions: the Senate may delay, but not defeat, House of Commons resolutions on certain constitutional amendments; and the Senate cannot introduce money Bills. In practice, the Senate generally reviews rather than initiates legislation. Historically, the Senate has rarely impeded passage of legislation originating from the House of Commons.

The House of Commons

Legislation normally originates from the elected House of Commons. Bills pertaining to matters which fall within federal jurisdiction must be passed by a majority of Members of Parliament (MPs) to become law. The 295 MPs are selected by general

elections which are held at least once every five years. Each MP represents one of 295 electoral districts which have been distributed according to population.

The Prime Minister

The Prime Minister is the leader of the political party (or group of parties) able to command the support of a majority of the members of the House of Commons. The Prime Minister is an elected Member of Parliament as well as national party leader, and has a mandate to determine the programs and policies of the government. The Prime Minister has the authority to dissolve Parliament and, therefore, controls the timing of elections.

The Cabinet

The Prime Minister chooses a group of government ministers who, together with the Prime Minister, determine executive policies. This Cabinet is collectively responsible to the House of Commons for government policies. Individual Cabinet ministers normally hold responsibility for specific areas of the government, such as finance or foreign policy, and introduce relevant legislation in the House.

The Privy Council Office

The Privy Council Office (PCO) is directed by the most senior member of the public service, the Clerk of the Privy Council, who also serves as the Secretary to the Cabinet. The PCO ensures the smooth functioning of the Cabinet, and advises the Prime Minister on government appointments, relations with Parliament and the monarchy, the roles and responsibilities of Cabinet ministers, and the organization of government.

The Provincial Governments

With the exception of being unicameral, Canada's system of provincial government mirrors that of the federal government. A premier, who is the leader of the party with the most support in the provincial legislature, forms a Cabinet from the elected members of the governing party. Members of a provincial legislature represent constituencies and approve legislation within their constitutional jurisdiction, as do their federal counterparts. Within

each province, a lieutenant-governor performs a role similar to that of the Governor General, granting royal assent to the laws passed by the legislature.

Parliamentary Committees

Parliament has many committees which perform functions that cannot be adequately accomplished during daily debate or *questoin peridos*.

Committee of the Whole

The Committee of th Whole is chaired by the Deputy Speaker, and includes all members of the House of Commons meeting in its normal chamber. The Commons originally met as a committee of the Whole to consider legislation clause by clause after the second reading of a Bill; however, this task has been relegated since 1969 to the erelevant standing committees.

Standing Committees

The most important parliamentary committees are the standing committees, which are usually chaired by Members of Parliament, with party representation being proportionate to that in the House of Commons. Specialist standing committees correspond roughly to government departments, while other committees deal with, *inter alia*, matters such as public accounts, private Bills, Parliamentary procedures, privileges, and elections. There are also joint standing committees of the House of Commons and the Senate, of which ministers are not normally members.

Legislative Committees

Legislative committees were established in 1985 to examine legislation after it has passed second reading. Therefore, a separate committee exists for each Bill. Legislative committee chairmen are selected for a panel of backbench members from each party.

Special Committees

Special committees, or select committees, such as the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada, are sometimes established by the

House to study specific issues or to assess public opinion on policy decisions. Both standing and special committees can be joint committees.

The Senate also has standing committees, special committees and a committee of whole.

Provincial legislatures have committee systems which are similar to those of the federal government, although they are generally less active than their federal counterparts.

The Party System

Canada has a federal multiparty system in which one party usually dominates. Since 1921, there have been representatives of at least three, and at times four or five, political parties in the federal Parliament. The Liberal Party, the Conservative Party, the New Democratic Party (originally the Co-operative Commonwealth Federation) have been represented in every Parliament since 1935. The Progressive Conservative Party has been in power since 1984, led by Prime Minister Brian Mulroney. A federal election is to be held by November, 1993.

Canada has an electoral system based upon single-member constituencies, wherein a political party attempts to win a majority of seats in a general election in order to form a government.

CAPE VERDE

Introduction

The Republic of Cape Verde is an archipelago of 10 islands and five islets in the North Atlantic ocean. The Cape Verde islands were discovered in 1460 by Diago Gomes. A settlement was established on the island of Santiago in 1462. The islands were colonised by the Portuguese in the 15th century. During the 18th and 19th century, fortunes of the islands declined with recurrent droughts and the migration of a portion of population to America, Portugal and mainland Africa.

Under Portuguese colonial administration, the islands became an overseas province in June, 1951. In 1956, Amílcar Cabral founded the *Partido Africano da Independência do Guiné e Cabo Verde* (PAIGC). It launched an armed struggle in 1961 for the liberation of Cape Verde and Portuguese Guinea and unilaterally proclaimed the independence of Portuguese Guinea (now known as Guinea-Bissau) in 1973. Following a coup by the armed forces in Portugal in April, 1974, Portugal transferred power to a transitional government headed by the Portuguese High Commissioner. Full independence was granted to the territory on 5 July, 1975. Aristides Pereira was the first President. Relations between Cape Verde and Guinea-Bissau soured because of 1980 coup but soon became normal following reconciliation talks held in 1982. In 1988 the two countries signed a co-operation agreement. In 1990 PAICV recommended constitutional reforms providing for multi-party system.

Constitution

The Constitution of Republic of Cape Verde was adopted on 7 September, 1980. It defines Cape Verde as a sovereign, democratic, unitary, anti-colonialist and anti-imperialist republic. The Constitution was amended in 1990.

The Constitution guarantees the citizens equality of rights and duties, without sexual, social, intellectual, religious or philosophical distinction. It also grants the citizens freedom of thought, expression, association, demonstration, religion and right to health-care, culture and education.

The President is the head of the State who is elected by universal adult suffrage for a five year term by secret ballot. He governs with the assistance of an appointed Council of Ministers. He appoints the Prime Minister. Both the President and Prime Minister are elected by National Popular Assembly. For winning the election, the president must obtain two-thirds of the vote cast. The President is also Secretary General of PAICV.

Under 1980 Constitution, the President as the Head of the State governs with the assistance of Council of Ministers which is headed by the Prime Minister. The Prime Minister is nominated by the deputies of the National Assembly.

The country is divided into 14 local government councils elected by universal suffrage for a period of five years. The Councils are supervised by an appointee of the Ministry of the Interior. He is assisted by a deliberative council.

Parliament and electoral system

Legislative power in Cape Verde is held by National People's Assembly (Assembleia Nacional Popular) which comprises 83 deputies selected by universal adult suffrage for a five year term. The National Popular Assembly normally meets only twice a year for Sessions lasting only a few days.

The President of the National Assembly can act as interim Head of State is necessary. However, he is not a member of the Government.

Political Parties/Organisations

Until 1990, the PAICV was the only authorised political party in Cape Verde. Amendments to the Constitution adopted in 1990 permitted the formation of other political associations. The following are the major political parties in Cape Verde.

- (1) *Partido Africano da Independencia de Cabo Verde (PAICV):*

The name of this party was changed to PAIGC in 1981 following the 1980 coup in Guinea-Bissau.

- (2) *Movements Para Democracia (MPD) :* This party obtained majority of seats in legislative elections held in 1991.

- (3) *Uniao Caboverdiana Independents de Demø Democratica (UNCID).*

This party is based in Boston, (USA).

- (4) *UPICV-R* is a pre-independence party. This party was revived after independence.

CENTRAL AFRICAN REPUBLIC

Introduction

Central African Republic is a land-locked country just north of the equator occupying a low plateau area. The region was probably part of the Gaoga empire in the 16th century. A French post was established at Bangui in 1889. However, France secured complete control in 1911. In 1898, the colony was administered as one of the four territories of French Equatorial Africa and was known as Oubangui-Chari. It became an overseas territory in 1946 and elected Boganda its representative in French Parliament. From 1 December, 1958 it became a member State of the French Community and got full independence on 13th August, 1960. Its first President was David Dacko. In 1966, Dacko was overthrown by his cousin Bokassa. President Bokassa became Emperor Bokassa I. The emperor was overthrown in a coup on 20-21 September, 1979 and the empire was abolished. On 15th March, 1981, David Dacko was re-elected President but Army Chief General Andre Kolingba captured power in a bloodless coup on 1st September, 1981 at the head of a Military Committee for National Recovery (CMRN) which held Supreme Power until 21 September, 1985. In September, 1985, President Kolingba dissolved CMRN and initiated a return towards constitutional rule. A referendum on 21 November, 1986 supporting adoption of a new Constitution gave Kolingba a six year mandate and approved *Rassemblement democratique Centrafricain* (RDC) as the sole party. The first legislative elections were held on 31st July, 1987.

Constitution

The Constitution promulgated on 6 February, 1981 was suspended following the coup in September, 1981. All the powers were assumed by Military Committee for National Recovery (CMRN) which was dissolved on 21 September, 1985. The present Constitution was adopted on its approved at a referendum on 21 November, 1986. It embodies the principles of liberty and equality before the law of all citizens regardless of sex, race and culture. It gives its citizens freedom of education, expression, movement and assembly.

According to 1986 Constitution executive power is vested in the President who is head of the State and Commander-in-Chief of the armed forces. He conducts national policies, negotiates and ratifies treaties, promulgates laws and is responsible for civilian and military appointments. He is elected for a six-year term by direct universal suffrage with absolute majority of votes cast. The President is empowered to appoint and dismiss ministers. He Presides over the Council of Ministers and has the power to dissolve the National Assembly.

Government

The Central African Republic is a sovereign and democratic State. Members of the Council of Ministers are appointed by the President. For administrative purpose the country is divided into 16 Prefectures and 52 sub-Prefectures. At community level, there are 18 *Communes de Plein exercice*, 39 *Communes de Woyen exercice* and 113 *Communes rurales*.

Parliament and electoral system

Parliament is composed of the National Assembly and the Economic and Regional Council, which when sitting together, are known as the congress. The basic function of the congress is to pass organic laws implementing the Constitution. It passes such laws as are not submitted to a referendum.

National Assembly is composed of 52 deputies elected by direct universal suffrage for a five year term. Its President is designated by its bureau. The Sessions of National Assembly are summoned by the President. It holds two ordinary sessions per

year of 60 days each. The President is empowered to summon its extraordinary session. Legislation can be introduced either by the President of the Republic or by a consensus of one-third members of the Assembly.

Economic and Regional Council consists of representatives from the major sectors of economic and social activity. One-half of its members are appointed by the President and the remaining are elected by the National Assembly on the nomination of the President. Its formation and functioning are determined by an organic law. It functions as an advisory body in matters referred to it by the President. It also advises on legislative proposals of economic and social nature.

The Congress has the same President and bureau as the National Assembly. An absolute majority of the Congress is necessary to pass organic laws and constitution-amendment laws which have not been submitted to referendum. It defines development priorities. The Council meets at the summons of the President to ratify treaties or to determine the existence of a State or War.

Political Parties/Organisations

Political activity of parties was suspended in September, 1981. In December, 1984, several opposition leaders formed a Provisional Government for National salvation under the aegis of the provisional executive council of MLPC. In July 1986 the MLPC and the FPO-PT formed the Front Uni to seek restoration of the 1981, Constitution and the re-establishment of multi-party political system.

The sole legal political party from February, 1987 to July, 1991 was *Rassemblement Democratique Centrafrican* (RDC). In 1991 the National Assembly approved legislation to amend the Constitution for establishment of multi-party political system. The following are some of the major political parties in the Central African Republic.

- (1) *Rassemblement Democratique Centrafrican* (RDC) : The party is led by a Congress, a political bureau and 7-member Executive Council.

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- (2) Convention Nationale.
- (3) Forum Civique.
- (4) Front Patriotique pour le Progress.
- (5) Party Social-democrate.
- (6) Movement Centrafrican pour la liberation nationale (MCLN).
- (7) Mouvement pour la liberation du peuple centrafrican (MLPC) etc.

CHILE

Introduction

Chile has about 2850 km long coastal line. This long strength of land lies along the Pacific Ocean with a width of about 170 kms. This makes not only an interesting geographical study with its very complex climate but also an introspective political study with its conflicting right-left animated political climate. As World's largest copper exporting country, Chile had its socio-economic and political developments always associated with its mining industry. Various economic experimentations with its economy, made Chile a Latin American country with a difference providing several "models" to the Third World. Chile is the first ever Latin American Nation to have had a Marxian ruled State.

Ever since the Spanish conquest in 1535, Chile remained a Spanish colony and constituted a National Government in 1810 from the Crown of Spain. Chile made a successful re-conquest and freed itself in 1818. Chileans gave themselves a Constitution in 1833. Conservatives and Liberals were the two major political forces for about a century. Radical party set up in 1863, Communist Party established in 1912 and Socialist Party formed in 1933 rallied in 1936 to form a popular front. Though it waned in 1952, the Front is best known for its contribution to the creation of State Development Corporation to stimulate domestic industrialisation. At a time when many of the copper mines were foreign-owned, the call for development in domestic sector and nationali-

sation of national resources made Chile a melting pot pleading to political turmoils and social turbulances. The pinnacle of that process of social change was seen in the victory of Popular Unity Party 1973. The formation of Marxist Coalition Government or President Salvadore Allende who promised Social Revolution through democratic constitutional means did not last long. Chile's recourse to civilian rule in 1989 has added new dimension to its democratic Constitution.

Chile came under military rule in September, 1973 when Commander-in-Chief of the Army, General Augusto Pinochet took over Presidency. He administered a government based on three constitutional Acts of 1976. It was designed to be a new democratic structure for Chilean society based on the family rejecting class struggle. "Transition to Democracy" as the new Fundamental Law was declared to be, came into effect in March, 1981. It was earlier approved by a plebiscite in accordance with the new constitutional prescriptions. The previous Constitution of 1925 was abolished with the new Constitution to be fully effective from 1989. The 1981 Constitution guaranteed elections in 1989 with provisions concerning National Congress.

Constitutional System

Demands for constitutional reforms were dominating the election campaign scene in 1989 as raised both by 17 party coalition for Democracy (CPD) and right wing parties. Accordingly, 54 reforms to the Constitution were approved at a National referendum in July, 1989 increasing the number of directly elected Senators from 26 to 38, abolition of need for the approval of two successive congresses for constitutional amendments, reduction in terms of office for the President from 8 to 4 years, redrafting the provision that outlawed Marxist groups to ensure true and responsible political pluralism, eliminating President's right to dismiss Congress were some of the reforms that were adopted. In November, 1991, constitutional changes to local governments were approved by the Congress. Directly elected representatives replace the centrally appointed local officials with the incorporation of this amendment.

The republic's executive power rests with the President who is assisted by a Cabinet. With the policy of administrative decen-

tralisation, the Chilean republic is divided into 12 Regions and a Metropolitan Area, Greater Santiago. Each region is presided over by an Intendent. All the Regions would consist of 51 provinces governed by the Central Government's representatives holding the office of Governor.

Provinces are further divided into Municipalities and its officers are elected direct by popular vote. National Security Council consisting of the Republic's President and Heads of the Armed Forces includes the Presidents of Supreme Court and Senate too. Chile's system of Law based on the 1857 code of Spanish Law has subsequently been affected by the influence of French and Austrian codes. Supreme Court, the highest judicial body may review legislation. The Capital Santiago is the seat of High Court of Justice. System of Tribunal of first instance in the provincial capitals with 17 courts of Appeal in the cities of Departments function independently. Supreme Court has 17 members and its President is elected from among them. The President of the Republic appoints the members from a list of five names submitted against each member of the Supreme Court.

Legislative set-up

Congress Nacional, Chile's bicameral National Congress is vested with legislative power. It comprises a 47 member Senate and a 120-member Chamber of Deputies. Senate, the Upper Chamber will have both elected and appointed members for a 8-years term. All former Presidents of the country will be Senators for life. Both the Houses will elect their Presidents from among their members.

Electoral and Party Systems

Chilean democratic process has been reactivated with the commissioning of elections right from the Local Administration level. The President of the Republic is elected by direct popular vote for a term of four years. Only 38 members of the Senate are directly elected while all the Deputies of the Lower Chamber are elected as people's representatives in a nation-wide election. All eligible adults have got the right to vote.

During most part of the past century, Chile was governed by a oligarchy of land owners. Most of the present century has

been characterised by the struggle for power between the right and left wing forces. A new era has dawned upon Chile to have strong re-emergence of democratic institutions

Most of the Political parties banned after 1973 were revived again. In October, 1988, the electorate in a referendum rejected Gen. Pinochet continuing as President till 1997 as he preferred to consolidate his position. But this enabled 16 political parties and opposition groups to form an opposition group called COMANDO POR el No to campaign against the Government candidate in that plebiscite. Following the victory in this political came the front expanded to a 17 party alliance as assumed the title *Concertacion de los partidos dela Democracia* (CPD). The former President of Christian Democratic Party (PDC) Patricio Alywin Azocar was put up as a single candidate to contest the presidential election of 1989.

Political system was revived with the reorganisation of political parties and groups. Eventually, Marxists also saw the ban on them revoked towards the end when Chile returned to democracy. *Partido Democrato Christiano* (PDC), *Renovacion Nacional* (RN), *Partido Par la Democracia* (PPO), *Union Democrata Independiente* (UDI)., Independents of the Centre-right are the main political parties and groups which have a role in the present Congress and the national politics.

CHINA

Introduction

The People's Republic of China is a unitary State consisting of 23 provinces, 5 autonomous regions and three municipalities. It is a "Socialist State of the dictatorship of the proletariat" based on Marxism-Leninism-Mao-ism led by the Chinese Communist Party (CCP). Prior to the assumption of Presidency in 1911 by General Chiang Kai-Shek under a democratic set up, China was ruled by various imperial dynasties the last one being Quing. The Communist revolution of 1949 overthrew General Chiang and since then China is the bastion of Communist ideology and system of Government. With the beginning of 1980s, China commenced its process of modernisation. The leaders of Chinese Communist Party and the government set the nation on a new course. The goal set was to bring China into the Community of advanced industrial nations by the start of 21st century and achieve a broad goal of 'four modernisations' indicating the core of development strategy in the field of agriculture, industry, science and technology and defence.

Constitutional set-up

In People's Republic of China the President is the head of States. He is advised by NPC and its Standing Committee. He appoints State Council. The 1982 Constitution vests executive power in the State Council which is elected by the legislature, the National People's Congress.

China's Constitution adopted in 1982 defines "Socialist modernisation" as China's basic task. National People's Congress can amend Constitution. It has power to remove highest State dignitaries. It decides on national economic plan. It is elected for a 5-years term. It meets once a year for 2 or 3 weeks. When not in Session, its business is carried by its Standing Committee.

National Committee of the Chinese People's political Consultation Conference (CPPC) holds discussions on important affairs in the nation's political life. Its members may be invited to attend the NPC or its Standing Committee as observers.

Parliamentary System

As far as China's parliamentary system is concerned, it has a legislative body which is known as National People's Congress. It is composed of deputies elected by the provinces, autonomous regions and municipalities. It is convened by its Standing Committee. The Standing Committee of the NPC consists of Chairman, Vice-Chairman, Secretary-General and members and is responsible to National People's Congress. NPC appoints Special Committees like Law Committee, Finance Committee etc. State Council is the executive body and the highest organ of State power and State in administration. NPC meets once a year for 2 or 3 weeks. When not in session, its business is carried by its standing committee which has a strength of 155 members.

Electoral and Party Systems

The total membership of National People's Congress are elected by simple majority vote of respective electoral unit. If number of successful candidates exceeds number of seats to be filled, those obtaining most votes are considered elected, if insufficient, another election is held among unelected candidates and those obtaining most votes (provided no less than 1/3 votes cast) are elected. Electoral Units are People's Congress of 23 provinces, 5 autonomous regions, 3 municipalities directly under Central Government and Armed Forces. All minority nationalities are entitled to appropriate representation.

Casual vacancies are filled by by-elections in the electoral unit or when not in session, in its Standing Committee.

The authority responsible for validating elections is NPC's Standing Committee. It validates elections on the basis of report from its Credentials Committee.

Political process of China is guided by Party Constitution of 1977 and State Constitution of 1978. These Constitutions stress the principle of "democratic centralism" under which representative organs of both Party and State are elected by lower bodies and they in turn elect their administrative arms. Within representative and executive bodies, minority has to abide by the decisions of the majority. Lower bodies have to obey the orders of higher level organs. Though National Party Congress is the highest organ of power of the Party, in practice the real centre of power is political Bureau (Politburo) of CCP Central Committee and still more Select Standing Committee of this bureau. On Government side, National Peoples Congress (NPC) is the highest organ of State power. State council performs the functions of Cabinet. Its key members also hold positions in important Party organs.

COLOMBIA

Introduction

Colombia, the largest coffee exporting country next only to Brazil, has a long history of civilian rule with a strong democratic tradition. Despite the recurring incidence of violent political conflicts and terrorism, Colombia's democratic institutions vibrantly survive, which in itself is a distinctive feature in Latin America. Its complex social structure, even at a time when it is highly urbanised and industrialised, has a lineage right from its colonial, agrarian period. Spanish (Castellano) is its official language, yet over 180 indigenous languages and dialects of ethnic groups are officially recognised within the territories. Ensuring peaceful co-existence and directing its foreign relations towards Caribbean and Latin American integration are but some of the essential aims of the Constitution of Colombia.

Colombia was part of a vast expanse of Spanish colony from 16th Century till it became independent in 1819 as "Gran Colombia". Ecuador and Venezuela seceded from it in 1830 and it became a Republic in 1886 and the present Colombia came into being in 1903 when Panama rebelled to have its freedom. Filial and feudal bondages, an inherent element in every Colombian made political awareness and rivalries an inherited one. Colombia's political system and party system and even the social changes are much influenced by this National character. For more than a century, conservatives and liberals were two main rival political

parties often meeting with violent clashes. In 1957, following a short-lived coup regime, Conservatives and Liberals formed a National Front to restore peace and stability. The bi-partisan government was legitimated with an agreement to share presidency by rotation. Cabinet portfolios equally, and in both the Houses of Parliament equal number of seats. Liberals and Conservatives who were in power respectively during 1861-86 and 1886 to 1930, shared power from 1958-1978 till a viable opposition in the form of *Alianza Nacional*, popular (ANAPO) made the National Front presidential candidate's victory in 1970 a scrape-through. National Front also lost its majority in both the Houses of Parliament in the simultaneous Congressional elections. In reaction to the disputed 1970 election results, an armed wing of ANAPO supporters called *Movimientos 19 de Abril* (M-19) was formed. The third political force of Colombia today is *Alianza Democratica* (ADM-19), the present incarnation of M-19, now supported by some of the Centre-left parties. *Partido Liberal* (PL) continue to dominate the political scene in Colombia right from 1974. *Partido Social Conservador* (PSC), *Nueva Fuerza Democratica* (NFD), *Modlimento de Salvacion National* (MSN) are the other major political parties and groups as of today.

Constitutional set up

Colombia's constitutional History is inter-connected with the vertical social mobility of the elites and interest groups who dominate the political and social life of the country. Colombia's new constitution which became effective in July, 1991, marked an end of confrontation and several other threats due to extremism. These threats were not directed at established political system but against any group opposed to powerful drug cartels of Medellin and Cali. An extradition treaty with USA and its invalidation by the Supreme Court of Colombia in June, 1987 and several rounds of negotiations with left-guerillas and right-wing activists resulted in the referendum for a Constituent Assembly held simultaneously with the presidential elections in 1990.

The new 380-Article Constitution drafted by 74-member National Constituent Assembly put an end to speculation on extradition. It preserves the existing institutional framework of a President and a bicameral legislature, Stresses States obligation to protect Human Rights, establishing Constitutional rights to

Health care, Social Security, Leisure with a comprehensive list of civil liberties.

Executive President is the Head of State assisted by a Cabinet which is accountable to Congress which has the power to dismiss Ministers. Colombia is divided into 32 Departments and the capital District of Bogota. Colombia has a system of Law based on Spanish Law. 20-member Supreme Court of Justice at Bogota has separate courts of civil, penal and Laboral Cassation. There are superior courts in 61 Judicial districts. Marriage matters are left to Religious courts in this pre-dominantly Christian society. Constitutional integrity of the State is ensured by the constitutional court composed of 7 judges elected by the Senate for a non-renewable 8-years term.

Legislative System

Legislative power rests with the National Congress. The bicameral legislature has an upper House of Senate with 102 members directly elected for a 4 year term. The 161 member House of Representatives has atleast two Representatives from each National Department for a 4 year term. A first delegate "prima Designed" is elected by the Congress to act in the event of a Presidential vacancy. Every National Department has an elected legislature and a Governor. Each department is sub-divided into Municipalities with elected Mayors for a two year term. Colombian Congress meets annually at BOGOTA on 20 July.

Electoral and Party Systems

Universal adult suffrage in Colombia took effect from 1957 with an overwhelming approval when the National Front went for a referendum. Women were given vote in 1954. Of all the Latin American countries, the percentage of women occupying public officers are found to be phenomenally high only in Colombia. President of the country is elected by popular vote for a non-consecutive 4 year term. The Vice-Presidency was instituted in July, 1991 and the incumbent elected through direct vote for a 4 year term. Electors can recall their representatives. All Senators and Department Governors are elected directly by universal suffrage. Municipal Mayors are elected by direct vote for a 2-year term which makes the pulse of the election process felt in various sub-divisions of the country.

CONGO

Introduction

An erstwhile French Colony between 1882-1960 and situated in West Central Africa, Congo became free on 15th August, 1960 and came to be known as the Republic of Congo. Since independence, the country has been passing through political turmoil between the military and the radical civilians, reflected the change of the country's name from Republic of Congo from 1958-1969 to the People's Republic of Congo in 1970 and again reverting to the old one in 1991. The country had a one party Presidential Marxist-Leninist political system with the military playing an essentially political role of the out set. As a result of the one party rule, the ruling party grew in strength. Opposition to single party rule culminated in political assassination, military intervention, declaration of martial law, repeated purge of the party and countless foiled coups. In 1991 single party polity was discarded and multi-party system replaced it.

Constitutional System

The Constitution of the Republic of Congo had been aggregated and adopted 5 times, in 1963, 1969, 1973, 1979 and 1991 because of conflict and tension its political system has been undergoing. The first Constitution of 1961 adopted a strong Presidential system, while that of 1963 opted for a scientific socialism. The third one of 1973, adopted a new socialist system whereas the 1979 Constitution reverted back to the Presidential form of

Government.

The country went for a Fifth Constitution in April, 1991. Earlier a National conference consisting of all political parties whose decisions were final. The sovereign body empowered a Higher Council of the Republic with legislative power. A draft Constitution was adopted by the Higher Council in December 1991. According to the new Constitution legislative power is to be exercised by an elected National Assembly and Senate and Executive power is to be held by an elected President.

Government

Since its independence, the republic witnessed several changes of Governments and countless military coups. A multi-party system was legalized in late December, 1990 and an interim Government was installed in January 1991. All political parties convened a National Conference in February. There was an announcement for plans to draft legislation providing for the suspension of the Constitution and the abolition of several State institutions and regional councils. The President was to have a ceremonial role while the Prime Minister was to be the Head of the Government during transitional period.

Parliamentary System

The National Conference held in Feb, 1991 approved the creation of a legislative Higher Council comprising 153 members. This Council was empowered to supervise the implementation of the decisions of the National Conference regarding the adoption of a new Constitution and holding of legislative elections in April, 1992, and a presidential election in June, 1992. The Higher Council of the Republic approved the legislative power to be vested in an elected National Assembly and Senate while an elected President was entrusted with executive power.

Political Party

Congo had been ruled by single party system since its independence. The Communist inspired MNF was established in 1964 as the sole party. The President Massamba Debat was ousted by a military coup led by Major Ngoumbi who became the next President and established the sole political party "*Parti Congolais*

du Travail (PCT)." President Ngoumbi was also assassinated in 1977. However, his labour Party PCT played an important role in the political system of Congo as the political conflict between the military and the radical civilians increased.

Since the later half of 1990, Congo has been undergoing political reforms. An extraordinary Congress of the sole authorised political party PCT was held in 1990 which favoured the introduction of a multi-party system. It was also decided to approve measures to limit the role of the ruling party in the country's mass and social organisation. PCT ceased to be the sole authorised political party in January, 1991 and more than 60 new political parties got themselves registered by early 1991.

COSTA RICA

Introduction

Costa Rica, which lies in the Central America was ruled by Spain from the 16th century until 1821 when it achieved independence. It has a remarkable history of regular and meaningful elections, peaceful transfer of power to lawfully elected governments, and civilian domination of the basic power structure. The only significant interruption in the country's constitutional government since 1920 occurred in February, 1948, when the result of the Presidential election was contested. From this turmoil emerged a new Constitution which is still in operation in Costa Rica.

Constitution

The Constitution of 1948 provides for the establishment of a unitary, popular and representative government in Costa Rica. Provincial and local bodies derive their authority from the national government. Under the Constitution, the sources of government authority are concentrated at the national level and divided among three distinct and independent branches—the Legislature, Executive and Judiciary. The Constitution provides for an elaborate system of checks and balances which have prevented domination by either the president or the legislature. Judicial authority is vested in an independent Supreme Court of Justice and over 100 subordinate courts through out the nation. The Constitution guarantees every Costa Rican a set of individual and social rights. The Constitution may be amended by an affirmative vote of two-

thirds of the entire membership of the Legislature in two successive annual sessions.

Parliamentary set up

Legislative power is vested in a single chamber, the Legislative Assembly, which meets in regular session twice a year. Special sessions may be convened by the President to consider specified business. Composed of 57 deputies, elected for a term of four years, the Legislative Assembly enjoys the power to enact laws, levy taxes and suspend by a two-third vote, in cases of civil disorder, certain civil liberties guaranteed in the Constitution. The Assembly is also empowered to override the presidential veto by a two-thirds vote.

The President is the head of the executive and is elected for a four-year term by compulsory adult suffrage and a successful candidate must receive at least 40 per cent of the votes. The executive power of the republic is vested in the President, assisted by two Vice-Presidents and an appointed Cabinet. The President ensures that the laws and provisions of the Constitution are carried out. He also has the power to appoint and remove Cabinet ministers and diplomatic representatives.

Electoral and Party Systems

Suffrage is universal, compulsory and secret for persons over the age of 18 years. Elections are held on the first Sunday in February every four years. Voters are provided three ballots; one lists the Presidential candidates and their two Vice-Presidential running mates; one lists the Provincial states of candidates for the Legislative Assembly; and one lists candidates for the municipal Council of the local canton.

With a multi-party system, Political Pluralism is widely prevalent in Costa Rica. The *Partido de Liberacion Nacional* (PLN) has been the dominant political party for decades. Communist and other left-wing parties were legalised in 1975. Another important political party is the *Partido Unidad Social Cristiana* (PUSC) whose candidate Rafael Angel Calderon Fournier was elected President of Costa Rica in 1990.

COTE D'IVOIRE

Introduction

Described as an oasis of political stability and economic prosperity in Western Africa by some Africa observers, Cote d'Ivoire is a member of the Inter-Parliament Union from African continent.

Brief History

It was only in the second quarter of the seventeenth century, the Ivorian nation—which remained cut off from rest of the world till then—had its first contact with Europe when in 1637 the French Missionaries visited it. However, French interest in the territory aroused only in 1886, when the French Government acquired direct control over the territory with a view to exploiting its vast gold reserves. In 1893, it formally became a French Colony administered by a Governor. In the post war period, the Governments of the Fourth and the Fifth French Republics introduced certain constitutional reforms guaranteeing the citizens rights to Free speech and assembly in order to meet national aspirations of the Ivorian people and providing for formation of French Community—an association of autonomous republics which were erst-while French Colonies. Finally in 1960, Cote d'Ivoire attained Independence and adopted a republican Constitution of its own. Mr. Felix Houphouet Biogny, a prominent figure in country's politics since 1944, became its President.

Constitutional System

On 31 October, 1960, Cote d'Ivoire adopted its republican Constitution which calls for a strong centralised Presidential System with an Independent Judiciary having a Supreme Court at its apex, a Council of Ministers accountable to and chosen by the President and a unicameral Legislature called National Assembly.

The Constitution lays emphasis on liberal democratic principles of governance and inalienable human rights as expressed in the French Revolution's Declaration of the Rights of Man (1789) and the United Nation's Universal Declaration of Human Rights (UDHR-1948). Among other salient features of the Constitution is the provision of a strong Chief Executive by combining the powers and functions of the President and the Prime Minister in one hand. Legislative authority has been divided between the Legislature and the President by demarcating the subjects on which they enjoy respective jurisdiction. The President legislates on subjects allocated to him by issuing decrees and regulations. The Constitution also provides for a social council which is an advisory body to the President on matters pertaining to economic development and social change.

Electoral and Party System

The electoral system is based on universal adult Franchise. For purpose of electing members to the National Assembly for a five year term, the country has been divided into 175 single Member Constituencies.

The Ivorian Constitution provides for a single party system. This is so because the PDCI leadership equator national unity with unanimous support for the PDCI—the ruling party. President F.H. Biogny is also the President of the PDCI. The Constitution of the country also provides that no other political party could function in the country. Thus PDCI is the only political party functioning under the Constitution and institutionalising the concept of one party presidential democracy. Within the PDCI, the power is wielded by the Political Bureau and the Committee Directorate. Total Membership of the Political Bureau is 80 and includes Cabinet Ministers and other prominent figures from Business, Military and Politics. The Committee Directorate is designed to have larger

segments of the population involved in the political process and to re-invigorate the party by expanding its representation. Major policy decisions are originated in the Political Bureau.

Parliamentary System

The National Assembly, having 175 seats, is the Parliament of the country. Its Members are called Deputies. Since the elections of 1980, a process has been started by which entry of better qualified people of the National Assembly is facilitated and its President—who enjoys No. 2 position in the Order of Precedence—could become the interim President of the country when there is a need.

National Assembly has a term of five years. Besides electing a full term President, the National Assembly can elect his Staff-Members too, one of whom presides over the sittings of the Assembly in the absence of its President.

There are three Standing Committees of the Assembly. The first Committee on Institutional and General Matters—looks after interior matters, information, national defence currency etc. While the second one—Committee on Economic and Financial Matters—takes care of subjects such as planning economic policies, public works, Land, Mining and postal and telecommunications. The third—Committee on Social and Cultural Affairs—is incharge of subjects like education, youth Affairs, Sports, Public Health and Population. Each of these Committees formulates, and presents Legislative proposals to the National Assembly on the subjects falling within its jurisdiction. The Legislative agenda is determined by the President, his staff and heads of the three Committees.

CROATIA

Introduction

The Republic of Croatia is a Central European and Mediterranean Country. The Croatia ranks among the Oldest European nations, with its State established in the ninth century. Croatia became a part of the earliest Yugoslav Community in 1918, as an independent State.

Since the authorizations granted to the Croatian representatives were exceeded and the newly established State of Serbs, Croats and Slovenes, later renamed into Yugoslavia, had a Unitarian monarchistic state organization, as soon as December 1, 1918, the Croats engaged in renewed political struggle for an independent state *via* the federalism opposition and the activities of the opposition parties, with the aim of establishing a fully independent Croatian State. Through the political struggle and on the basis of an agreement reached in 1939, the *Bonovina* of Croatia was established, whereby the federalist option was legalized.

After the fall of the first Yugoslavia, during the anti-fascist war, in June, 1943, the anti fascist Council for the National Liberation of Croatia was formed as a legislative body, with large areas of Croatia under its authority. The first postwar Constitution was enacted by the Sabor of the People's Republic of Croatia in 1947.

In the period of second Yugoslavia, when the State Cohe-

sion between politically, culturally and ethnically heterogeneous federal units was accomplished through the monolithism of the Communist Party, Croatia succeeded in preserving her independent identity even in such an unnatural state community, struggling continuously for her statehood.

The final step on the long road to her full state sovereignty and independence began with Croatia's first free, multiparty elections, held in May, 1990.

Constitutional Set up

The freely elected, multiparty *Sabor* unanimously proclaimed the Constitution of the Republic of Croatia on 22 December, 1990, thus declaring the Republic of Croatia as a unitary, indivisible, democratic and social state whose power derives from the people and belongs to the People as a community of free and equal citizens.

On the basis of the Constitution, the President of the Republic, Dr. Franjo Tudjman called a referendum, which was held on June 19, 1991. It is then that the citizens of the Republic of Croatia decided, with an absolute majority, on having a sovereign and independent Republic of Croatia.

According to the Constitution of the Republic of Croatia, state power branches, on the Principle of separation of powers, into legislative, executive, and judicial ones.

The President of the Republic of Croatia is the head of State. His term of office is five years, he is elected on the basis of universal and equal suffrage at direct elections by secret ballot.

The Government of the Republic of Croatia exercises executive powers, which are, however, shared with the President of the Republic at individual sessions directed at decision — making and operations. The Government is responsible to both the President of the Republic and the Chamber of Representatives of the *Sabor*.

Parliamentary System

The *Sabor* (Parliament) of the Republic of Croatia is a body of representatives — citizens and the bearer of legislative power in

the Republic. The *Sabor* is bicameral, consisting the House (Chamber) of Representatives and the House (Chamber) of *Zupanije* (or *Zupanijas* i.e. Counties).

The House of Representatives has a total of 138 representatives (MPs), elected on the basis of direct universal and equal suffrage by secret ballot. Sixty representatives are elected from state (Party) lists; by proportional representation and d'Hondt method of calculating the distribution of seats among individual parties. Another sixty representatives are elected by simple majority in single-member Constituencies (the Republic of Croatia being divided into 60 such Constituencies).

The House of *Zupanije* (i.e. counties) of the *Sabor* of the Republic of Croatia is the upper chamber of the *Sabor*. To this House three representatives are to be elected in each *Zupanija* (In Croatia there are 20 *Zupanije*, with the city of Zagreb, the capital of the Republic, also being granted the status of a *Zupanija*) on the basis of direct universal suffrage by secret ballot. Representatives are elected in each *Zupanija* by proportional representation and d'Hondt method of calculating the distribution of seats from *Zupanijae* lists of candidates. The Chamber of *Zupanije* shall have 63 representatives, if the Serbian minority, whose share in the overall population is higher than 8 percent, does not get proportionally represented, the missing number of Serbian minority members shall be subsequently elected.

By the Law on Local self-Government and Administration local self-government in the Republic of Croatia is organized on the bases of European tradition. Established as units of local self-government are municipalities and towns, whereas *Zupanije* (e.g. counties) are units of local self-government and administration.

Established by law are : 419 municipalities ; 69 towns ; 20 *Zupanije*; and the city of Zagreb with the *Zupanije* status.

Party System

Some of the important parties are : Croatian Democratic Union (CDU); Croatian Democratic Party (CDP) ; Serb Democratic Party, coalition of National Agreement (CNA); etc.

CUBA

Introduction

The Republic of Cuba, an archipelago of two main islands, Cuba and the Isle of youth laying in the Caribbean Sea was ceded to the USA by Spain in 1898 after the former was defeated in the Spanish-American war. Cuba became an independent republic on 20 May, 1907. Fulgenci Batista Zaldivar came to power in 1933 at the head of a military revolt and ruled the country directly or indirectly until he retired in 1944. In March, 1952, Batista again seized power and ruled Cuba until 1959 when he was forced to flee by the guerrillas led by Dr. Fidel Castro Ruz. The new regime headed by Dr. Castro ruled by decree and in December, 1961 announced Cuba to have become a communist State.

Constitution

Following the assumption of power by the Castro regime on 1 January, 1959, the 1940 Constitution was suspended and a Fundamental Law of the Republic was instituted with effect from 7 February, 1959. Cuba's first "socialist" Constitution was submitted to the *Partido Comunista de Cuba* (PCC) the country's sole legal party in 1975, and came into force in February, 1976, after being approved by popular referendum. The Constitution declares Cuba to be a socialist republic in which "all power belongs to the working people." The doctrines of the "unity and power" and "democratic centralism" are identified as the underpinnings of the State. "Socialist legality" is recognised as the judicial and

legal foundation of the country. Among the official functions performed by the State are the "constitution of socialism", the defence of the country, the guaranteeing of the liberty and rights of citizens and the fulfilment of their duties and personality, the consolidation of collective ideology by the people, the protection of the nation's property and the planning and administering of the economy. The state is also responsible for providing employment and access to education, culture and sports for all, as well as for the care of children, the sick and the disabled.

Parliamentary set up

The 1976 Constitution establishes a unicameral, semi-parliamentary form of government at both, national and local level. The National Assembly of People's power is the supreme organ of the State and is the only organ with constituent and legislative authority. It is composed of deputies over the age of 18 elected by the Municipal Assemblies of People's power for a period of five years. According to a constitutional amendment approved by the National Assembly in December, 1991, deputies to the Assembly are now to be elected by direct vote.

The National Assembly holds two ordinary sessions a year and a special session when requested by one-third of the deputies or by the Council of State. More than half the total number of deputies must be present for a session to be held. All decisions made by the Assembly, except those relating to constitutional reforms, are adopted by a simple majority votes. The deputies may also be recalled by their electors at any time. The President of the National Assembly presides over sessions of the Assembly.

The Council of State which is elected from the members of the National Assembly and accountable to it, represents that Assembly in the period between sessions. It comprises a President who is the Head of the State as well as Government, one First Vice-President, five Vice-Presidents, one Secretary and 23 other members. All decisions are adopted by a simple majority of votes and its mandate ends when a new Assembly meets.

The council of Ministers is the highest-ranking executive and administrative organ. It is composed of the Head of the State and Government as its President, the First Vice-President, the

Vice-Presidents, the Ministers and the President of the Central Planning Board. The Council of Ministers is accountable to the National Assembly and the Council of State.

Electoral and Party System

All Cuban citizens aged 16 years or more, including military personnel, except those who are mentally incapacitated or who have committed a crime, are eligible to vote. The deputies to the National Assembly are elected directly by the people. The Municipal Assemblies of People's power are directly elected by the local population, and in turn elect delegates to the Provincial Assemblies.

Then *Partido Comunista de Cuba* (PCC) the only authorised party is the leading force of society and the State. The PCC's highest authority is the Party Congress which elects a Central Committee (225 members in October, 1991) which supervises the work of the Party. The Central Committee elects a politburo (25 members in 1991) to direct its policy.

CYPRUS

Introduction

An ancient land of love, sunshine and flowers. Cyprus is an island country in the eastern Mediterranean. Its prehistory dates back to the 6th millennium B.C. Early in the 2nd millennium B.C. the Achaean Greeks established city-kingdoms in the island. Because of its position and natural wealth, Cyprus was conquered by various peoples. Between the 8th and the 5th century B.C., it was ruled successively by the Assyrians, the Egyptians and the Persians. Alexander the Great finally liberated Cyprus from the Persians. Later the island came under the dominion of the Ptolemies of Egypt and then the Roman Empire. In 330 A.D. it became a province of the Byzantine Empire. The island passed into the English hands for the first time in 1192 when Richard the Lionheart, conquered it on his way to Palestine for the Holy war. He passed the island onto the knights Templar and they in their turn, to the Lusignans from France who ruled until 1489. Cyprus then came under the rule of Venice. The Turkish invasion in 1571 ushered in three centuries of Muslim rule. In the third phase of its history, the administration of the island was handed over to Great Britain as per the Convention of 1878 with a provision for the surplus revenue to be paid to Turkey. It was formally annexed to the British Empire at the onset of the First world war in 1914 and remained under British rule till its independence in August 1960. In 1974 Cyprus was invaded by Turkey which still occupies 37 per cent of Cypriot territory in violation of repeated United

Nations resolutions.

Constitutional System

According to the 1960 constitution of the Republic of Cyprus, 56 of the 80 Representatives must be elected by the Greek Cypriot and 24 by the Turkish Cypriot community separately from among their respective members by universal suffrage of adults over 21 years of age through direct and secret ballot. The constitution provided for a presidential system of government. The President should be elected from the Greek Cypriot Community and the vice-President from the Turkish Cypriot Community. Both are elected by universal suffrage and have the power of final veto over any decision of the Council of Ministers or the House of Representatives in matters relating to foreign affairs, defence and security. The Turkish Cypriots withdraw from the government and the House of Representatives in 1963. In 1983, nine years after the Turkish invasion, the Turkish Cypriot leadership purported to declare an independent "state" in the area controlled by the Turkish occupation troops. This illegal entity is not recognized by the international community. The United Nations, the Commonwealth, the Non-Aligned Movement and European organizations have condemned the purported secession. The 1960 Constitution as amended is still the legitimate legal structure of the country.

Government

The Republic of Cyprus follows the presidential system of Government, the President being the Head of the State and government. The President is elected by universal suffrage for a five year term. The President exercises his executive power through a Council of Ministers appointed by him. There is no Prime Minister. The House of Representatives with a term of 5 years has its ordinary session for 9 months, usually from September to July of the following year. The House meets in plenary once or twice a week, usually on Thursdays and Fridays. Members of the House of Representative may not be Members of the Government. The two offices are incompatible. A Member of the House appointed by the President to become a Minister must relinquish his seat in the House.

The Committee of Selection, presided by the President of

the House, sets up the Parliamentary Committees. The Committees consider every Bill referred to them. The Bills are first introduced in the House. The President of the House then refers the Bills to appropriate Committees for examination. The Committee completing its deliberation on any Bill, prepares a report to be distributed among the Members. The House considers the Bill and reports of the Committee and debates the Bill on Principle and then clause by clause. This is the second stage. In its final stage, the House goes through the third reading considering the Bill as a whole and deciding to make it a law or not. The Bill is passed by voting and becomes a law after it is published in the official Gazette of the Republic.

Electoral System

The principle of proportional representation is followed in the electoral system. Each elector can either vote for a party or an independent candidate. The Parliamentary seats are determined by the electoral strength of the party. Candidates contesting election to the House must be citizens of the Republic, must be 25 years old and without any conviction for an offence behind them.

Political Parties

Multi-party democracy. The following political parties are represented in Parliament :

1)	Democratic Rally (DISI)	19 seats.
2)	Progressive Party of the Working People (AKEL)	18 seats.
3)	Democratic Party (DIKO)	11 seats
4)	EDEK Socialist Party	7 seats
5)	Liberal Party	1 seats.

One other political party, the Renovative Democratic Socialist Movement (ADISOK) is not represented in Parliament.

CZECHOSLOVAKIA*

Introduction

Czechoslovakia was established on October 28, 1918, out of the ruins of the Austro-Hungarian Empire by the post World War I Treaties. In 1939, Bohemia and Moravia, which comprise the Czech Republic, became German Protectorates, while Slovakia experienced a brief period as an independent nation until 1945. Czechoslovakia, as a federal country, was restored in 1945 and the two republics were granted broadly equal rights within the federation. After the takeover by Communists in 1949 elections, the country was named Czechoslovak Socialist Republic till 1989, when after the "Velvet Revolution" official name was changed to Czech and Slovak Federal Republic. This federation was dissolved on December, 31, 1992, with the Czech and Slovak Republics becoming two independent successor States.

Constitution

On December, 16 the Czech National Council adopted a Constitution for the Czech Republic to come into effect after the split of Czechoslovakia into two independent countries on Janu-

*The replacement of the membership of the Federal Parliament of Czechoslovakia by the Parliaments of the two successor Republics will be considered at the 89th Inter-Parliamentary Conference in New Delhi.

ary 1, 1993. The Constitution defines the Czech republic as a Democratic States based on respect of the rights and freedoms of man. The Slovak Legislature had adapted a new constitution in September, 1992, after declaring sovereignty over to territory too months before.

Parliamentary System

Both the countries have adopted parliamentary democracy. The Czech Republic has a 200 member lower house and an 81 member upper House. Debate continues in the Czech Republic over whether the legislature will be a one chamber or two chamber body, and whether the President will be elected by the Parliament or by popular vote. The Slovak constitution outlines a one chamber legislature, but the possibility of creating two chamber is being discussed.

Electoral and Party System

The Civic Democratic Party (CDP) is the dominant party in the Czech Republic. While in the Slovak Republic the Movement for a Democratic Slovakia is the ruling party.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Introduction

The Democratic People's Republic of Korea (North Korea) was occupied by Japan in 1905 and was annexed formally in 1910. Following the Japanese surrender in 1945, Korea was divided at latitude 38°N into two parts with occupation of US forces in the South. On 10 October, 1945, Workers Party of Korea was formed under the leadership of H.E. Kim Il Sung. In northern part, a Provisional People's Committee, was established in February 1946 and in 1947 a legislative body, the Supreme People's Assembly was established, and Kim Il Sung became Premier. A new Assembly was elected in August, 1948 and on 9 September, the Democratic People's Republic of Korea was proclaimed. The W.P.K., led by Kim Il Sung, has held power in North Korea from beginning.

Constitution

A new Constitution was adopted in December, 1972. The Constitution declares the DPRK as an independent socialist state stresses the revolutionary traditions of the state and the desire to achieve national reunification by peaceful means on the basis of national independence. National sovereignty rests with the working people, who exercise power through the Supreme People's Assembly and People's Assemblies at lower levels, which are elected by universal, secret and direct suffrage. The basic rights and duties of citizens are laid down and guaranteed. These include the

right to vote, to work, right to free Medical care and material assistance for the old, infirm or disabled, and to political asylum. National defence is the supreme duty of citizens. The Court is independent and impartial, Justice is administered by the Central Court, the local court, the People's Court and the Special Court, Judges and other legal officials are elected by the Supreme People's Assembly. The Central Court protects State property, Constitutional rights, guarantees, that all State bodies and citizens observe State laws and executes judgements.

Parliamentary Set up

The President, as Head of State, is elected for a four-year term of office by the Supreme People's Assembly. He convenes and presides over Administration Council meetings, is Chairman of the National Defence Commission. The President promulgates laws of the Supreme people's Assembly and decisions of the Central People's Committee and of the Standing Committee. He has the right to issue orders, to grant pardons, to ratify or abrogate treaties and to receive foreign envoys. The Presidents is responsible to the Supreme People's Assembly.

The Supreme People's Assembly as the highest organ of State power, exercises exclusive legislative authority and is elected by direct, equal, universal and secret ballot for a term of four years. Its chief functions are, to adopt or amend legal or constitutional enactments, to determine state policy, to elect the President and Vice-President, Secretary and members of Central People's Committee (on the President's recommendation), to elect members of the Standing Committee of the Supreme People's Assembly, the Premier of the Administration Council (on the President's recommendations), the President of the Central Court, and other legal officials; to approve the State Plan and Budget, to decide on matters of war and peace. It holds regular and extraordinary session, the former being twice a year, the latter as necessary at the request of at least one-third of the deputies. Legislative enactments are adopted when approved by more than half of these deputies present. The Standing Committee is the permanent body of the Supreme People's Assembly. It examines and decides on bills, amends legislation in force when the Supreme People's Assembly is not in session, interprets the law; organizes and con-

ducts the election of Deputies and Judicial personnel.

The Central People's Committee comprises the President, Vice Presidents, Secretary and Members. The Committee exercises the power, to direct the work of the Administration council as well as organs at local level, to implement the Constitution and legislative enactments, to establish and abolish Ministries, appoint Vice-Premiers and other members of the Administration Council, to appoint and recall ambassadors and defence personnel, to confer titles, decorations, diplomatic appointments; to grant general amnesties, make administrative changes; to declare a state of war. It is assisted by a number of Commissions dealing with internal policy, foreign policy, national defence, justice and security and other matters as may be established. The Central People's Committee is responsible to the Supreme People's Assembly's Standing Committee.

The Administration Council is the administrative and executive body of the Supreme People's Assembly. It comprises the Premier, Vice-Premiers and such other Ministers as may be appointed. Its major functions are the following; to direct the work of Ministries and other organs responsible to it, to work out the State Plan and take measures to make it effective, to compile the State Budget and to give effect to it, to organize and execute the work of all sectors of the economy as well as transport, education and social welfare; to conclude treaties, to develop the armed forces and maintain public security, and to annual decisions and directives of States administrative departments which run counter to those of the Administration Council. The Administration Council is responsible to the President, Central People's Committee and the Supreme People's Assembly.

Electoral and Party System

All citizens above 17 years of age have the right to vote. The 687 members of the Supreme People's Assembly are elected unopposed for four years by universal adult suffrage.

Political Power is held by the Workers' Party of Korea (WPK), which dominates the Democratic Front for the Reunification of the Fatherland which also includes two other minor Parties, the Chondoist Chongu Party and the Socialist Democratic Party (SDP).

The Front presents an approved list of candidates for elections, to representative bodies. The WPK's highest authority is the Party Congress, which elects a Central Committee to supervise Party work. The Committee elects a Political Bureau to direct Policy. The Presidium of the Political Bureau is the WPK's most powerful Policy-making body.

DENMARK

Introduction

Denmark belongs to the small democracies of the western world. The nation has a character of its own because the population is scattered over many islands. Denmark proper is divided between the peninsula of Jutland and numerous islands, big and small, surrounded by water, and except for the short terrestrial German border, all borders are delimited by water.

In 1945, following the end of Nazi Germany's Wartime occupation, Denmark recognised the independence of Iceland. Home rule was granted to the Faeroe Islands in 1948 and to Greenland in 1979. Denmark was a founder member of NATO in 1949 and the Nordic Council in 1952. It entered the European Community in January, 1973.

Denmark is a Kingdom and has been so for about the last one thousand years. In 1947, King Frederik IX succeeded to the throne on the death of his father, Christian X. Denmark's Constitution was radically revised in 1953. New provisions allowed, females to become successor to the throne, abolished the Upper House of Parliament and granted adult franchise. King Frederik died in January, 1972, and his eldest daughter, Margrethe, became the first queen in its nearly 600 years history to rule Denmark.

Constitutional Set up

The Constitutional Charter was adopted on 5 June, 1953. It is built entirely on the first Danish Constitution of 1849. With the adoption of the constitutional Act of 1953, however, the Upper House — the *Landsting* — which had for long prevented universal suffrage from gaining the real control over the government of the State, was abolished.

The form of government is limited (Constitutional) monarchy. The legislative authority rests jointly with the Crown and the Parliament. Executive Power is vested in the Crown. The Queen exercises her authority through the Ministers appointed by her. The Ministers are responsible for the government of the country.

Parliamentary System

The Parliament is an assembly consisting of not more than 179 members, two of whom are elected in the Faeroe Islands and two in Greenland. It is called the *Folketing*. The members of the *Folketing* are elected for four years through a system of proportional representation, with direct and secret ballot on lists in large Constituencies 135. Members are elected directly while 40 of the mandates are subsequently distributed among the areas in which number of votes is sufficient to ensure the election of an ordinary mandate. A bill adopted by the *Folketing* may be submitted to referendum, when such referendum is claimed by not less than one-third of the members of the *Folketing* and later than three days after the adoption.

Electoral System

The right to vote in a *Folketing* election is held by every Danish citizen of at least 18 years of age provided that he has not been declared insane. Any qualified elector is eligible for membership of Parliament.

The electoral system is one of proportional representation.

Party System

Originally, the electoral system was like the British system, majority elections in single-member Constituencies, which meant that there were only two or three political parties in the *Folketing*.

The system of proportional representation has led to an increase in the number of parties. After the general election which was held in 1973, the number of parties doubled from five to ten. At present, there are eight parties in the *Folketing* e.g. the Liberal Party, the Central Democrats, the Christian People's Party, Progress Party, Social Democratic Party, etc.

DJIBOUTI

Introduction

The Republic of Djibouti is in the Horn of African, at the southern entrance to the Red Sea. There are two main ethnic groups, the Issa, who are of Somali origin ad comprise 50% of the population and the Afar, who comprise 40% of the population and are of Ethiopian origin. The official languages are Arabic, and French. The capital is Djibouti. Somali and Afar languages are also spoken.

At a referendum held on 19 March, 1967, 60% of the electors voted for continued association with France rather than independence and the new statute for the territory came into effect on 5th July, 1967. Following discussions between Ali Aref and President Giscard d'Estaing in January, 1976, the French Government affirmed that the territory of the Afars and the Issas was destined for independence but no date was fixed. Legislative elections were held on 8th May and independence as the Republic of Djibouti was achieved on 27th June, 1977.

Constitution

In February, 1981 the National Assembly approved the first constitutional laws controlling the election and terms of office of the President who is elected by universal suffrage for six years and may serve for no more than two terms. Candidates for the presidency must be presented by a regularly constituted political party and represented by at least 25 members of the Chambers of

Deputies.

In October 1984, a new constitutional law was proposed, specifying that when the office of President falls vacant, the President of the Supreme Court will assume the power of Head of State for a minimum of 20 days and maximum of 35 days during which period a new President shall be elected.

The Council of Ministers, presided over by a Prime Minister is responsible to the President.

Legislature

Legislative power is held by the Chamber of Deputies, consisting of 65 members elected for five years from a single list put forward by the sole legal party, the Popular Rally for Progress.

Electoral and Party System

The laws passed in October, 1981 led to the establishment of a one-party State. Legislative elections were held in May, 1982 when candidates were chosen from a single list approved by the RPP with 91% of the electoral voting. At concurrent legislative elections, 65 candidates for the Chamber of Deputies presented on a single list approved by the RPP, were elected unopposed by 87% of the electorate.

In April, 1991, a new and powerful armed opposition called the *Front Pour la Restauration de L'unité et de La Démocratique* (FRUD), which was composed of a merger of three armed Afar groups was founded.

The Political Bureau of the ruling party, the *Reassemblément Populaire pour le Progrès*, is appointed by the President. The Republic forms a single electoral district.

Among the political organisations in Djibouti, the *Reassemblément Populaire pour le Progrès* (RPP) is the sole legal party since 1981. The following organisations are banned — *Front de libération de la cote des Somalis* (FLCS), FRUD, MJD, MPLD, MUD and UMD.

ECUADOR

Introduction

The Spaniards under Francisco Pizarro founded a colony after their victory at Cajamarca on 16th November, 1532. Earlier, for thousands of years the highlands around the present capital, Quito, had been settled by Indian tribes for thousands of years, the Incas being the latest and sophisticated. On the execution of the Inca Emperor Atahualpa by the Spanish in 1533, Chief Raminavi marshalled the remains of the Inca army and fought on against the twin attacks of *Pedro de Alvarado* and *Sebastian de Bana lcazor* before being executed in 1534. The Spanish founded the city of Quito on the same site in 1534.

Constitutional System

Since Independence Ecuador had need 17 Constitutions the clorea—one being in force since 1979. Under the Constitution, the executive President is directly elected with a Vice-President for a non-renewable 4 year term by universal suffrage. The President appoints and leads the Council of Ministers. The Constitution of 1979 states that legislative power is exercised by the Chamber of Representatives which sits for a period of 60 days from 10 August. The Chamber is required to set up four full time Legislative Commissions to consider draft laws when the House is in recess. Special sessions of the Chamber of Representatives may be called.

In addition to its law-making duties, the Chamber ratifies treaties, elects members of the Supreme and Superior Courts, and

(from panels presented by the President) the Comptroller General, the Attorney General and the Superintendent of Banks. It is also able to overrule the President's amendment of a bill, which it has submitted for Presidential approval. It may reconsider a rejected bill after a year or request a referendum, and may revoke the President's declaration of a state of emergency. The budget is considered in the first instance by the appropriate Legislative Commission and disagreements are resolved in the Chamber.

Only one term is granted to the President. The President appoints the Cabinet, the Governors of Provinces, diplomatic representatives and certain administrative employees. He is responsible for the direction of international relations. In the event of foreign invasion or internal disturbance, the President may declare a state of emergency and must notify the Chamber, or the Tribunal for Constitutional Guarantees if the Chamber is not in session.

Government

The executive branch of government consists of the President, the Vice-President, the Ministers of State and their subordinate officials, and Conade. The President may declare a state of emergency in general situations involving imminent foreign aggression, international war or serious internal strife or catastrophe. In order to prevent arbitrary presidential declarations, Congress or the TGC may revoke the state of emergency at any time if the circumstances justify such action. The President has important legislative powers as well. The principle of "legislative coparticipation" allows the Chief executive to participate in the formation as well as the execution and application of laws. The legislature may override a presidential veto by a two-thirds majority. The President may call Congress into extraordinary session to consider exclusively matters put before it by the head of the state. The eleven-member Conade consists of the Vice-President, the President of the Monetary Board and one representative each of Congress, the Majors (*alcaldes*) and Provincial Prefects (*Prefectos provinciales*) organised labor, the Commercial Associations (*Camaras de Production*), and the polytechnical universities and schools. In the event of a tie, the matter is resolved by the vote of whoever is presiding over the meeting.

Parliamentary System

The 1979 Constitution establishes a unicameral legislative body—the Congress. Two classes of deputies—the nationals and the provincial—are elected. Congress usually meets once a year for a period for 70 working days. When Congress convenes in an ordinary period of sessions, it elects from among its members a president and vice-president for a one year term. In addition, two secretaries are elected who are not members of the legislature.

Congress names, from among its national deputies, seven legislators and seven substitutes (suplentes) to each of the four legislative commissions and appoints a number of high level government officials from the lists submitted by the President.

The Constitution gives Congress important powers in legislation and in political and judicial control. Only Congress or in its recess the PCL, may enact legislation or interpret the Constitution. It also has a role in budgetary matters. One of the legislative commissions reviews the budget submitted by the executive branch through the Ministry of Finance and Credit. Only in the case of budgetary discrepancies does Congress intervene.

Congress grants or denies permission to the President and Vice-President to be absent from the country, grants them general amnesty for political crimes and imposes fines on them for common crimes. Congress may dismiss cabinet ministers by a majority vote.

The Electoral System

The 1979 Constitution requires that the President and the Vice-President be elected by an absolute majority of votes. This stipulation requires a second electoral round between the two leading candidates. The three organs responsible for overseeing the electoral process are the TSE (Supreme Electoral Tribunal), TPE (Provincial Electoral Tribunals and the Vote Receiving Committees— JRVs).

As the highest of these bodies, the TSE is responsible for appointing and supervising TPE members, overseeing the electoral registrars, convoking elections and the entities that form the electoral colleges, counting electoral votes, resolving appeals of

rulings made by the TPEs and issuing regulations, governing the political parties.

Only legally recognised political parties may declare candidates and register them. The Constitution provides for a popular consultation which the Law of Elections refers to more specifically as a plebiscite. The decision adopted by a popular consultation is final.

Voting is obligatory for all literate citizens of 18 years and above. The latest Congressional elections were held in June, 1990 for 60 seats.

The Party System

The 1967 Constitution was the first to introduce provisions for political parties. The 1979 Constitution attempts to strengthen the party system by giving parties state protection and financial assistance.

Middle and upper middle class professionals and businessmen have led Ecuador's two traditional parties, the Conservative Party (*Partido conservador* ³/₄ PC) and the Radical Liberal Party (*Partido Liberal Radical* ³/₄ PLR).

The two party structure began to decline in the early 20th century as leftist parties emerged. Ecuador had at least 4 Communist and Socialist Parties. The oldest was the Partido Socialista Ecuatoriano—PSE).

The PSE gave birth to both the Moscow oriented *Partido Comunista Ecuatoriano*—PCE and the *Partido Socialista Revolucionario del Ecuador*—PSRE. Another PCE splinter group, the pro-Chinese Communist Party of Ecuador—*Marxist Leninist* was formed in 1972.

EGYPT

Introduction

The Republic of Egypt, laying on the north-eastern corner of Africa was a province of the Ottoman Empire and later a British protectorate. It was granted nominal independence in 1922 and Fuad-I, the reigning Sultan, became King of Egypt. He was succeeded in 1936 by his son, King Farouk. In 1936, full sovereignty was granting to Egypt. In 1952, King Farouk's regime was overthrown by a bloodless military coup, the monarchy was abolished and Egypt was proclaimed a republic. In 1956, Col. Gamal-Abd-an-Nasser became the acting Head of the State. Egypt and Syria merged in 1958 to form the United Arab Republic (UAR) with Nasser as President which was dissolved in 1961, but Egypt retained this title till 1971, when a new Constitution took effect and the country was named the Arab Republic of Egypt.

Constitution

The Constitution approved by a referendum in 1971 describes Egypt as an Arab Republic with a democratic, socialist system based on the alliance of the working people and derived from the country's historical heritage and the spirit of Islam. Sovereignty lies with the people alone which is the source of all powers, Government, and law making are based on principles of responsibility to the people through elective representative institutions and the encouragement of popular participation. Islam is the religion of the State; Arabic is its official language and the

Islamic code is a principal source of legislation. The State safeguards the freedom of worship and performing rites for all religions. Minorities are protected through legal acknowledgment of personal and private liberties, equality of access to and before the law, and safeguards on the freedom of the media and of personal opinion and association. Equality of the sexes, right to work supported by a benefits and insurances, material sufficiency and non-exploitation are all stipulated in the Constitution. Recourse to justice is a right of all citizens. The sovereignty of law is the basis of the country's rule. The Supreme Constitutional Court in Egypt is at the opening of the system with the power to review the constitutionality of laws and regulations.

Parliamentary set up

Legislative power is held by the unicameral Majlis ash-Sha'ab (People's Assembly), which has 454 members : 10 nominated by the president and 444 directly elected for five years from 222 constituencies. The People's Assembly approves general policy, the budget and the development plan. In exceptional circumstances, the Assembly, by a two-thirds vote, may authorise the President to rule by decree for a specified period but these decrees must be approved by the Assembly at its next meeting. There are 20 committees, including 18 Standing Committees in the People's Assembly. The Assembly may pass a vote of no-confidence in a Deputy Prime Minister, a Minister or a Deputy Minister. In the case of the Prime Minister, the Assembly may "Prescribe" his responsibility and submit a report to the President. If the President disagrees with the report but the Assembly persists, then the matter is put to a referendum; if the people support the President the Assembly is dissolved, if they support the Assembly, the President must accept the resignation of the Government. The President may dissolve the Assembly, prematurely, but his action must be approved by a referendum and elections must be held within 60 days.

Executive authority is vested in the President. The President is nominated by at least one-third of the members of the People's Assembly, approved by at least two-thirds and is elected by popular referendum for a term of six years. He may take emergency measures in the interests of the State which must be ap-

proved by referendum within 60 days. The President appoints one or more Vice-Presidents, a Prime Minister and a Council of Ministers. There is also a 210-member advisory assembly, the Shura Council.

Electoral and Party System

444 member of the People's Assembly are directly elected by the people. The President of the Republic is also elected by a popular referendum.

Egypt has a multi-party system. In 1977, the People's Assembly adopted a new law on political parties which permitted the formation of political parties for the first time since 1953. Among the major political parties in Egypt are the Democratic Unionist Party, the Liberal Socialist Party, National Democratic Party, the National Progressive Unionist Party, and the Socialist Labour Party.

EL SALVADOR

Introduction

El Salvador was ruled by Spain until 1821 and became independent in 1841. Since then its history has been one of frequent coups and outbursts of political violence. Reports of violation of human rights by the Government were widespread in 1979. The polarisation of left and right after 1972 was characterised by an increase in guerrilla activity. In January, 1980, an ultimatum from progressive members of the Govt. resulted in the formation of a new Government a coalition of military officers and the *Partido Democrate Cristiano* (PDC). In March the country moved closer to full-scale civil war with the assassination of the Roman Catholic Archbishop of San Salvador.

In December 1980, Jose Napoleon Duarte, was sworn in as President. In January, 1981, the guerrillas launched their final offensive and after initial gains, the opposition front *Frente Democrático Revolucionario* (FDR) proposed negotiations with the U.S.A. The U.S.A. affirmed its support for the Duarte Govt. and provided civilian and military aid.

The issue of human rights abuse continued to be a serious problem for the Government throughout 1983. Following their capture of the strategically important towns of Berlin and San Miguel the guerrillas struck a crucial blow against the government with the attack on the garrison at El Parcusio and the destruction of the Cuscatlan bridge in January, 1984.

In the 1984 elections, Duarte secured a clear majority over D'Aubuisson obtaining 54% of the votes cast. The new policy adopted by Duarte was intended to revive El Salvador's economy, but it succeeded only in antagonising the trade unions and the private sector. A further problem for the government was the deterioration in its relation with the Roman Catholic Church, following allegations that the Church was offering assistance to members of the rebel forces.

In August, 1989, the Head of State of five Central American countries signed an agreement in Tela Honduras. In the spirit generated by the Tela agreement, representatives of the government and the FMLN began negotiations in Mexico City on 13 September. However these negotiations were accompanied by fluctuations in the intensity of violent exchanges between the guerrillas and the security forces. In response to a personal invitation from the then U.N. Secretary General Javier Pérez de Cuellar, the Government as well as the Guerrillas attended a new round of discussions in New York, where it was announced that a new framework for peace had been agreed.

El Salvador has a territorial dispute with Honduras over 3 islands in the Gulf of Fonseca and a small area of land on the joint border.

Constitutional System

The Constitution of El Salvador consists of 11 titles, subdivided into 274 articles. All Salvadorans over 18 years of age are considered citizens. The rights of the citizen include the exercise of suffrage and the formation of political parties "in accordance with the law". The exercise of suffrage is listed as an obligation as well as a right, making voting mandatory. Members of the Clergy and active-duty military personnel are prohibited from membership in political parties and cannot run for public office.

Amendment of the Constitution is not a simple procedure. Initial approval of an amendment (or "reform") requires only a majority vote in the Legislative Assembly. Before the amendment can be incorporated, it must be ratified by a two-thirds vote in the next elected assembly. Since legislative deputies serve 3 year terms, an amendment could take that long or longer to win passage into law.

Government

The executive branch is made up of the President of the Republic, the Vice-President, Ministers and Vice-Ministers of State and their subordinate officials. The President is elected for a 5-year term by universal adult suffrage. He must be a member of a legally recognised political party. The powers of the President are circumscribed to some extent by the Constitution. The President is charged with the "direction of foreign relations" and is designated the Commander-in-Chief of the armed forces.

The Ministers and Vice-Ministers are named and removed by the President. They are required to be Salvadoran by birth and over 25 years of age. Together with the President and Vice-President, the Council of Ministers (or Cabinet) produces the government plan the projected requirements of the government for the coming year and proposes a budget to the assembly at least three months before the beginning of the fiscal year.

Parliamentary System

The legislature is a unicameral body known as the Legislative Assembly consisting of 84 members. Its members are referred to as deputies (*diputados*). They are elected every three years according to a system of proportional representation. The assembly elected in March 1988 was composed of sixty deputies and sixty alternates (*Suplentes*).

The powers of the Legislative Assembly are considerable. It is the body that determines the statutory laws of El Salvador. It has the power to levy taxes, to ratify or reject treaties negotiated by the executive Branch with foreign governments or international organisations and to regulate the civil service. The assembly also wields the power of the purse as the body that approves the national budget in its final form. Perhaps just as important in a political sense is the assembly's power to place individuals, through a majority vote, in the following posts: President (Chief Justice) and magistrates of the Supreme Court, President of the Central Electoral Council, President and Magistrates of an independent government auditing body known as the Court of Accounts, the Attorney-General, and the procurator-general. By naming to these positions, members of parties or factions opposed to the Presi-

dent, the Legislative Assembly can impede the workings of government to a significant degree. The assembly also has the power to declare war, ratify peace treaties, and grant amnesty for political offences or common crimes. Legislation may be introduced not only by deputies but also by the President, by way of his Ministers, the Supreme Court, in the case of laws pertaining to the judiciary, and the local municipal councils, with regard to municipal taxation.

Electoral System

The organisation in charge of administering electoral procedures is the Central Electoral Council (*Consejo Central de Elecciones*), which consists of three members and three alternates elected for five year terms by the Legislative Assembly. The President of the Central Electoral Council serves as the Chief Administrator and the ultimate authority on questions of electoral procedures.

The Central Electoral Council, in coordination with its departmental and municipal electoral boards, determines the number and location of polling places.

In the case of Presidential elections, the Central Electoral Council can declare a winner only if one receives an absolute majority of all votes cast. If no one party or coalition receives such a majority, the Council is required to schedule within 30 days a run off election between the two leading vote getters. The declaration of winners in legislative balloting is less direct, here voters cast their ballots for parties more than for individuals since seats in the Legislative Assembly are allotted to the registered candidates roughly on a proportional basis according to the departmental vote totals of their party or coalition. Municipal elections are more straightforward, with the winners decided according to their showing in the municipal vote tallies.

Party System

By 1988, El Salvador had a number of registered political parties participating in the democratic process. Only three, however, had significant followings, the PDC, Arena and the PCN.

The major representative of the political left in El Salvador

was the Revolutionary Democratic Front (FDR). Upto and including the elections of 1988, the left had been excluded from the electoral process. The most frequently cited impediment to leftist participation was right wing violence.

The 1985 crisis within the ranks of Arena, produced a splinter party, Free Fatherland (Patria Libre). The PL, however, was unable to compete with Arena on an organisational basis and came away without a single seat in the Legislative Assembly.

Likewise were several other small political parties that ran candidates in the 1988 elections but failed to garner any seats in the Legislative Assembly.

ESTONIA

Introduction

The Republic of Estonia (formerly the Estonian Soviet Socialist Republic) is situated in north-eastern Europe. The country is bordered to the South by Latvia, and to the east by the Russian Federation. Estonia's northern coastline is on the Gulf of Finland.

The Russian annexation of Estonia, formerly under Swedish rule, was formalised in 1721. During the latter half of the 19th century, as the powers of the dominant Baltic German nobility declined, Estonians experienced a national cultural revival, which culminated in political demands for autonomy during the 1905 Russian Revolution, and for full independence after the beginning of the First World War. On 30 March, 1917 the provisional Government in Petrograd, which had taken power after the abdication of Tsar Nicholas II in February, approved autonomy for Estonia. The then major Estonian political parties united to form the Estonian Salvation Committee, and on 24 February, 1918 an independent Republic of Estonia was proclaimed. After a period of armed conflict between Soviet and Estonian troops, the Republic of Estonia and Soviet Russia signed the Treaty of Tartu on 2 February, 1920. By the terms of the Treaty, the Soviet Government recognised Estonia's independence and renounced any rights to its territory. Estonian independence was recognised by the major Western Powers in January, 1921 and Estonia was admitted to the League of Nations.

On February 2, 1990, a mass rally was held to Commemorate the anniversary of the 1920, Treaty of Tartu. On 30 March, the Supreme Soviet adopted a declaration which proclaimed the beginning of a transitional period towards independence and denied the validity of Soviet Power in the Republic. Lot of protests were made in the Republic by the people and government. In the end the Estonian Government moved to assert its authority over former Soviet institutions, other countries quickly began to recognise Estonia's independence. By the end of August, 1991 more than 30 countries had recognised Estonia, and on 6 September the USSR State Council finally recognized the re-establishment of the independent Estonian Republic. On 17 September Estonia, together with the Baltic States, was admitted to the United Nations.

Constitutional Set up

The 1938 Constitution of the Republic of Estonia was annulled after the Soviet annexation in 1940. Estonia became a part of the USSR and had a Soviet-Style Constitution. The 1938 Constitution was restored in August, 1991 and is currently in force.

The Head of the State is the Chairman of the Supreme Council, who is also addressed as "President", although the post of President is not officially mentioned, in the Constitution. Executive Power is held by the Council of Ministers, which is headed by the Prime Minister and elected by the Supreme Council. For administrative purposes, Estonia is divided into 15 counties (maakond) and six towns. The Counties are sub-divided into Communes (vald).

Parliamentary System

Legislative authority resides with the Supreme Council, which has 105 members, elected by Universal adult suffrage.

Party System

Important Political Parties are : A Popular Front of Estonia; International Movement of the Working People of Estonia; Estonian Christian Democratic Party; Estonian Communist Party; Estonian Christian Democratic Union; etc.

ETHIOPIA

Introduction

Ethiopia lies in the North Eastern part of Africa, occupying a strategic position in the Horn of Africa. It is a mountainous country. Ethiopia has always been a bridge between Africa, the Arab World and Indian Ocean. It is the 7th largest country in Africa. Ethiopia is one of the countries with longest history in the world with the thousands of years of sovereign statehood of an un-interrupted continuity.

By repulsing the expansionist wars waged against them by the Turks and the Egyptians and by defeating the Italian invaders in 1896 at the famous battle of Adowa the people of Ethiopia have proved their will and determination to safeguard their independence and unity at any cost. Through the indefatigable heroism and sacrifice of its people, Ethiopia remained the only non-colonized state in Africa and become the beacon of independence and freedom for Africa and for many other colonized countries.

The over-throw of Emperor Haile Selassie in the year 1974 marked the end of monarchy and the feudal system. But under the Military Junta (Dergue) which usurped state power, thereafter, the Ethiopian people endured a life of anguish in the midst of war, poverty, hunger and disease. However, the various nationalities and oppressed peoples of this country rose against their oppressors with a firm resolve to throw the yoke of oppression.

The long concerted and protracted struggle of the Ethiopian people, particularly, the heavy and bitter struggle waged by Ethiopian People's Revolutionary Democratic Front (EPRDF) brought about the downfall of the dictatorial Dergue regime and succeeded in liberating the Ethiopian People and oppressed nationalities.

On 28 May 1991, a new era of peace, democracy and justice began in Ethiopia. It marked the downfall of the military Junta and the successful take over of the State Power by democratic forces of the Transitional Government of Ethiopia.

The Transitional Government of Ethiopia adopted National Charter based on the UN Declaration of Human rights as the supreme law of the land for the transition period leading to multi-party elections.

Constitution

A Commission has been set up under the National Charter of Ethiopia for drafting Ethiopia's future democratic Constitution. Till the new Constitution come into operation, transitional Period charter (National Charter) has been adopted.

Parliamentary set up

The Peace Loving and Democratic forces present in the Ethiopian society and having varied views met in a conference convened from 1-5, July 1991, have discussed and approved the charter laying down the rules governing Transitional Government as well as setting down the principles for the transitional period. The National Charter has been adopted which will serve as the law of the land or the highest authority in the country until the drafting of a new democratic constitution. For the first time in the history of constitutional process in this country, the Charter's principles were based on the universally accepted democratic ethos. Part one, Article one of the National Charter says, among other things, 'Based on the Universal declaration of Human rights of the United Nations, adopted and proclaimed by the General Assembly by resolution 217 A (III) of December 1948, individual human rights shall be respected fully and without any limitation whatsoever.

Article two of the Charter highlights one of the basic political tenets of the transitional period, namely the recognition of the rights of nations/nationalities to manage their own affairs without unwarranted interference by the central authorities. The rights of nations/ nationalities and peoples to self-determination is affirmed" says Article 2. This principle alone signals the beginning of the end of oppressive central authority and articulates the aspiration for effective decentralization and federalism predicated on the universal democratic and humanistic values and principles.

The July Conference established the 87-seat legislative body, an ad hoc Parliament with the seats distributed according to the strength of the respective constituencies represented by the various national organizations and supra-national parties. H.E. Ato Meles Zenawi, the leader of the EPRDF, was elected by the Council of Representatives as the President of the Transitional Government of Ethiopia. H.E. Ato Tamirat Layne was appointed as the Prime Minister and was given the mandate to form a new Government.

Electoral and Party System

For the first time in the history of Ethiopia, free and fair elections were held under the directions of the Election Commission, in 14 regions in Ethiopia in June '92. Over 50 political organizations and groups and over 3000 independent candidates competed. This election opened the path towards regional self-administration.

FINLAND

Introduction

The Republic of Finland lies in northern Europe, bordered to the far-north by Norway and to the north-West by Sweden. Russia adjoins the whole of the eastern frontier.

Finland was formerly an autonomous part of the Russian Empire. During the Russian revolution of 1917, the territory proclaimed its independence. Following a brief civil war, a democratic Constitution was adopted in 1919.

Demands by the former USSR for military bases in Finland and for the cession of part of the Karelian isthmus, in South Eastern Finland, were rejected by the Finnish Government in November, 1939. As a result, the former USSR attacked Finland, and the two countries, fought the "Winter War" a fiercely contested conflict lasting 15 weeks, before Finnish forces were defeated. In the hope of recovering the lost territory and trying to avoid the fate of the Baltics, Finland joined Nazi Germany in attacking the USSR in 1941. However, a separate armistice between Finland and the former USSR was concluded in 1944. In April, 1948, Finland and the former USSR signed the Finno-Soviet pact of Friendship, Co-operation and Mutual Assistance, which was extended for a period of 20 years in 1955, 1970 and again in 1983.

In 1991 the treaty was replaced with an Agreement on Good Neighbourliness and Co-operation which is presently valid between Finland and Russia.

Finland has during the years, in conformity with the policy of neutrality, been active on different international fora as the Conference on Security and Co-operation in Europe and the United Nations. Finland is a member of the European Free Trade Association and has now applied for membership in the European Community with which it has had a freetrade agreement.

Constitutional set-up

The Constitution of Finland was adopted on 17 July, 1919. It contains the regulations concerning the structure of the Government as well as the constitutional rights of the citizen. The ultimate power is vested in the people as represented by the Parliament. The executive power vested with the President is extensive though he, with rare exceptions, only exercise it through the Council of State over which he presides. The legislative power is with the Parliament, though the President also has right of initiative in legislation.

The President appoints the Prime Minister and the Ministers, presently 17, who must enjoy the confidence of the Parliament. The Council of State meets under the leadership of the President when the subjects fall within his powers as eg. foreign policy, otherwise it is headed by the Prime Minister. The Council of State is responsible for the general administration of the country. There are 12 Ministries under the Council of State of which several have boards under them where power is wielded by civil servants.

The country is divided into 12 provinces and for the local government into 460 municipalities. The Aland Islands have a special position being demilitarized and enjoying wide autonomy.

Parliamentary System

The Parliament is an assembly of one chamber with 200 members elected for four years. It assembles annually at the beginning of February. The ordinary duration of a session is 120 days but the Parliament can, at its pleasure, extend or shorten its

session. The Parliament exercises its legislative authority in conjunction with the President who gives his consent to laws. The parliament also has the right to determine the estimates, which though not technically a law, are published as a law. At the beginning of the Parliamentary term 13 specialised Committees are appointed as well as the grand Committee which is, in a way, relic of past plans for a bicameral system.

The work of the parliament of Finland consists of three related elements, i.e. work in plenary session, Committee work and the activity of the Parliamentary (Party) groups.

Electoral System

All Finnish citizens who have attained the age of 18 before the year in which the election takes place are entitled to vote and to stand for election.

The Unicameral Parliament of Finland, is composed of 200 members elected for four years. President is elected by direct popular vote for six years.

Elections in Finland are proportional. Votes are for individual candidates, and there are several candidates in each district. Finland is divided into 15 electoral constituencies, each returning between 7 and 30 members, depending on population.

The parliamentary reform of 1906 was very radical and women were granted the right to vote and made eligible for election. Finland was thus the first country in the World in which women received full political rights, which they actively use of the 200 members of the present Parliament, 77 are women and of the 17 members of the Council of State, six ministers are women, including the first woman as Minister of Defence.

A vacancy arising in Parliament between general elections is filled by the individual who is "next in line" on the list of party which formerly held the seat.

Party System :

The basic characteristic of Finnish parliamentarism is co-operation among parties. Because one single party in Finland has only once, after the elections in 1916, had an absolute majority in

parliament, the co-operation of a number of parties is required for the formation of a majority Government. At present, the largest party, the Centre Party, has 55 seats in the 200 member Parliament.

Currently, Finland has a majority Government. The parties in the present coalition government are the Centre Party, the National Coalition, the Swedish people's party, and the Finnish Christian League.

The parties in opposition are the Social Democratic Party, the Left Alliance, the Greens, the Finnish, Rural Party, and the Liberal Party.

FRANCE

Introduction

The French Republic is situated in Western Europe. The Republic, proclaimed on the fall of the Bourbon monarchy in 1792, lasted until the First Empire, under Napoleon I, was established in 1814 and lasted until the abdication of Louis Philippe in 1848 (with an interval in 1815). The second Republic was established on 12 March, 1848, the second Empire on 2nd December, 1852. The Third Republic was established on 4th September, 1870.

In September, 1939, upon Hitler's invasion of Poland, France and Britain declared war on Germany, thus entering the second World War. In 1940, French forces were disarmed and 60% of France was controlled by Germany. After the liberation of France from German occupation in a war in 1944, a provisional government took office. After the War France became one of the five great powers in the United Nations and was one of the four powers to occupy Germany. It had 26 different governments from 1946 to 1958. During this period Fourth Republic's Constitution provided for colonies to be formed into a French Union, under which they gained varying degree of autonomy. The Fifth Republic, now in force, was established on 5th October, 1958. France is a founder-member of NATO.

Constitution

France's constitutional history has been eventful, the country has had fifteen Constitutions in the last two centuries. The

Constitution of fifth Republic, superseding that of 1946, was adopted by referendum on 28th September, 1958 and came into force in October, 1958. It consists of a Preamble dealing with the rights of man and 92 articles.

France is a Republic, indivisible, secular, democratic and social. All citizens are equal before the law. National sovereignty resides with the people, who exercise it through their representatives and by referenda. Political parties carry out their activities freely, but must respect the principles of national sovereignty and democracy. The President of the Republic sees that the Constitution is respected, ensures regular functioning of the public authorities as well as continuity of the State. He is the protector of national independence and territorial integrity. He appoints a Prime Minister and on the latter's advice, appoints and dismisses other members of the cabinet. In times of crisis, he may take such emergency powers as the circumstances demand. The National Assembly cannot be dissolved during such a period. According to the Constitution, the meetings of two Assemblies shall be public. Assembly may sit in secret committee at the request of the Premier or of one-tenth of its members. The motto of the Republic is "Liberty, Equality, Fraternity"

The initiative for amending the Constitution belongs both to the President of the Republic on the proposal of the Premier, and to the Members of Parliament.

Parliamentary set-up

Under the 1958, Constitution, legislative power is held by the bicameral Parliament, comprising a Senate and a National Assembly. The Senate has 321 members (296 for metropolitan France, 13 for the overseas departments, collectivities territoriales and territories and 12 for French nationals abroad). Senators are elected for a nine-year term by an electoral college consisting of the members of the National Assembly, delegates from the Council of the Departments and delegates from the Municipal councils. One-third of the Senate is renewable every three years. The National Assembly has 577 members, with 555 for metropolitan France and 22 for overseas departments, "collectivites territoriales" and territories. The Assembly's term is five years, subject to dissolution. Executive power is held by the President who appoints a

council of Ministers, headed by the Prime Minister, which administers the country and is responsible to Parliament. The House do not have equal powers. In legislative matters, the Government may allow the National Assembly to make the final decision if the two Houses do not agree. It is the National Assembly to whom the Council of Ministers is accountable.

The Parliament meets twice a year in ordinary sessions. The first session, which begins on October 2, lasts 80 days, the second which begins on April 2, lasts 90 days.

In addition to the ordinary session, the Parliament can be called to an extraordinary session by decree of the President of the Republic at the request of either the Prime Minister or the majority of the members of the National Assembly. Since 1958, the Parliament has only met once in extraordinary session at the request of the deputies.

A deputy or a senator who is named a minister in the Government has a month to choose between his ministerial functions and his parliamentary mandate. At the end of this grace period, if he remains a member of the Government, he is replaced in the National Assembly or in the Senate by his alternate, who is elected for this purpose at the same general election.

Although they cannot be members of the Parliament, the members of the Government may attend parliamentary sessions and take the floor whenever they do desire. The Government also has various means at its disposal which enable it to participate in the legislative process.

The role of the Parliament involves two basic functions—one legislative, and the other supervisory with respect to the Government.

Metropolitan France comprises 22 administrative regions containing 96 departments. There are four overseas departments, two overseas "collectivites territoriales" and four overseas territories, all of which are integral part of the French Republic. Each overseas department is administered by an elected Conseil General and Conseil Regional, each "collectivite territoriale" by an appointed government Commissioner and each overseas territory by an appointed High Commissioner.

Electoral System

Deputies of the 577 member's National Assembly for Metropolitan France and for the overseas possessions are elected under a system of proportional representation. Within each department seats are allocated to candidates in the order in which they appear on the party lists, and the votes for any party receiving less than 5% of the total votes are reapportioned among the remaining lists. According to the electoral law, July, 1986, the 577 Deputies of the National Assembly are to be directly elected under the former single-member constituency system. Participating parties can nominate only one candidate and designate a reserve candidate who can serve as a replacement if the elected Deputy is appointed a Minister or a member of the Constitutional Council, or is sent on a government assignment scheduled to last more than six months, or dies. A Candidate must receive an absolute majority and at least one-quarter of registered votes in order to be elected to the National Assembly. If these conditions are not fulfilled, a second ballot will be held a week later, for voters to choose between all candidates receiving 12.5% of the total votes on the first ballot. The candidate, who receives a simple majority of votes on the second ballot will then be elected. Candidates polling less than 5% of the votes will lose their deposit.

Committee System

There are permanent, special, *ad hoc* and Joint Committees. The number of permanent Committees is six in each House. The correspondence of the Committees is subject-based. The Committee members are appointed by election in each House on the basis of proportional representation of groups. A Member cannot join more than one permanent Committee. The Chairman of Committee is elected by each Committee. Committees have their permanent secretariat. Committees of National Defence and Finance have civil servants from the Central Administrative Services permanently attached as expert advisers. Ministers have no obligation to appear before a Committee except before investigative Committees, but in practice, Ministers attend the meetings when requested.

The Assemblies may also exercise their supervisory authority by creating investigatory Committees. The life-span of such

committees is limited to six months. They are created to gether information on either a set of given facts or the running of a public service or a national firm. Investigatory Committee reporters have a broad range of powers. Anyone who is called to testify, is obliged to appear before the Committee. Moreover they can examine public records in government offices.

Although this procedure was not in common use at the beginning of the Fifth Republic, it has developed progressively. In the National Assembly, for example, since the beginning of the current legislature, it has become customary to allow each political group to request the creation of an investigatory committee every year. Thus upto four investigatory committees have been operative at the same time.

Political Organisations

Centre National des Independants ex Paysans (CNI), Parti Socialiste (PS), Union des Frans (UDF), Rassemblement pour la Republique (RPR), Federation des Socialistes Democrates (FSD), Front National (FN), Parti Communiste Fransais Generation Ecologie, Les Vcsrts, Ligue Communiste Revolutionnaire (LCR) and Lutte Ouvriere (LO) are some of the main political organisation.

GABON

Gabon is an equatorial country on the West Coast of Africa. First colonised by France in the mid 19th century, Gabon was annexed to French Congo in 1888 and became a separate colony in 1910 as one of the 4 territories of French Equatorial Africa. It became an autonomous republic within the French community on 28 November, 1958 and achieved independence on 17 August, 1960.

At the time of independence, there were two main political parties, the *Block Democratique Gabonaise* (BDG) led by Leon M'ba and the *Union Democratique et Sociale Gabonaise* (UDSG). M'ba became Prime Minister in 1958 and Head of State at independence. In February, 1961 M'ba was elected Gabon's first President. He dissolved National Assembly in 1964. When M'ba died (November 1967) his Vice-President, Albert Bernard Bongo, assumed the Presidency. In March 1968, President Bongo instituted single-party government.

In 1981, there were anti-government demonstrations at the University, organised by a moderate opposition group *Mouvement de Redressement National* (MORENA). Members of MORENA advocated a multi-party system. They were sentenced at a trial in November, 1982 but subsequently reprieved. In May, 1985, President Bongo appealed to opposition leaders to return to Gabon. MORENA responded by forming a government-in-exile. Although President Bongo repeated his opposition to the establishment of a multi-party system, M'ba Abessolo, announced his support for the

Bongo Government in 1989. In January, 1990 representatives of MORENA announced that M'ba Abessolo had been dismissed from the leadership of the movement.

A national Conference was convened in March, 1990 to determine the programme for the transfer to multi-party democracy. The Conference approved the immediate establishment of a multi-party system and the formation of a new government, which has to hold office only until the October legislative elections. President Bongo concurred with this decision and a 29-members transitional administration was formed a state of emergency was imposed in Port-Gentil and its environs in May, 1990, following the death of Joseph Rendjambe, the Secretary-General of the opposition party (PGP). In February, 1992, three political associations MORENA, PSG and USG merged to form the *Forum Africain Pour la Reconstruction* (FAR). Later in February, the Government announced that a multi-party Presidential election would take place in December, 1993.

Constitution

The Constitution of the Gabonese Republic was adopted on 21 February, 1961. It was revised in February, 1967, April, 1975, August, 1981, September, 1986, May, 1990 and March, 1991. The Preamble upholds the rights of Man, liberty of conscience and of the person, religious freedom and freedom of education. Sovereignty is vested in the people, who exercise it through their representatives or by means of referenda. There is direct, universal and secret suffrage. The existing presidential mandate is valid for a period of seven years (until 1994). Thereafter, the President will be elected by direct universal suffrage for a five year term, renewable only once. The President is Head of State and of the Armed Forces who may, after consultation with his Ministers and leaders of the National Assembly, order for a referendum to be held. The President appoints the Prime Minister, who is head of Government and is accountable to the President. The President is the guarantor of national independence and territorial sovereignty. Executive power is vested in and Council of Ministers, and he presides over the Council.

Parliament

The National Assembly is elected by direct universal suffrage for a five-year term and normally holds two sessions in a year. The unicameral National Assembly consists of 120 members. It may be dissolved or prorogued for up to 18 months by the President, after consultation with the Council of Ministers and President of the Assembly. If the President dissolves the Assembly, the elections must take place within 40 days.

Committee System

There are two types of Committee in Gabon, permanent and *ad hoc*. The number of permanent Committees is six. Committee's areas of competence correspond with those of ministerial departments. The Committee members are appointed by the Assembly following the criteria of Provincial origin, qualifications and experience. There are no restrictions on multiple membership. Chairmen are chosen by the Committees according to regional balance within Assembly. The Committees' Secretariat is provided by the administrative staff of Assembly. The Secretariat prepares Bills and ordinances for Committee's examination. When necessary, Government officials can be summoned by the Committees. MPs not members of a Committee can attend the meetings of the Committee but cannot vote there.

Government

Gabon is a republic with a presidential form of Government. A new Constitution which was adopted in March, 1991, included the proposed formation of an Upper House of the legislature. The country is divided into nine provinces, each under an appointed Governor, and 37 prefectures. All governors, Prefects and Sub-prefects are appointed by the President. The system of justice is based on the French codified Civil Law system and Customary Law.

Electoral System

Suffrage in Gabon is universal. All Gabonese nationals over twenty-one years of age are eligible electors. Election is by secret ballot. Foreign nationals living in Gabon may also vote. Partly because of the vote of foreign nationals and partly because regis-

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teration is not a pre-requisite for voting, the votes actually cast in a national election often exceed the number of registered voters. Election comprises two stages; Primary, election by indirect suffrage with single nomination of candidate and his substitute, following by universal, direct suffrage for candidates appearing on a regional list which may not be altered. Supreme Court is the authority for validating elections and resolving election disputes. The candidates should be of 28 years above and registered voters.

Political Parties

The *Parti Democratique Gabonais* was the sole legal party until May, 1990, when constitutional amendments provided for the introduction of a multi-party system. Ten political associations were in existence in early 1992. Some of them are : *Association Pour le Socialisme au Gabon* (APSG), *Cercle Pour le renouveau et le Progres* (CRP), *Co-ordination de L' Opposition Democratique* (COD) and *Forum Africain Pour la Reconstruction* (FAR).

GERMANY

Introduction

The Federal Republic of Germany which was formally established in October, 1990 upon the accession of the Democratic Republic (GDR, East Germany) to the Federal Republic of Germany lies in the heart of Europe. Its neighbours to the West are the Netherlands, Belgium, Luxembourg and France, to the South Switzerland and Austria, to the east the Czech Republic and Poland and to the north, Denmark.

After the defeat of the Third Reich in 1945, Germany was divided into US, Soviet, British and French occupation zones. Berlin was similarly divided. After the failure of negotiations to establish a unified German administration, the three Western occupied Zones were integrated economically in 1948 and later politically by establishing the Federal Republic of Germany whose Basic Law was promulgated on 23 Jan. 1949, although its sovereignty was limited by the continuing Allied military occupation. In October 1949, the Soviet occupied zone of Germany declared itself the German Democratic Republic, with the Soviet occupied zone of Berlin as its Capital. The former USSR granted complete sovereignty to the GDR on 27 March, 1954. The Paris Agreement on 1954 gave full sovereign status to the FRG from May 5, 1955. The FRG continued to aim for a United Germany.

Constitution Set-up

The Basic Law which was promulgated in the British, French

and U.S. Zones of occupation in Germany on 23 May, 1949, was and is intended as a provisional Constitution to serve until a permanent one for Germany as a whole could be adopted. The Parliamentary Council which framed the Basic Law intended to continue the tradition of the Constitution of 1948-49, and to preserve some continuity with subsequent German Constitutions (with Bismarck's Constitution of 1871 and with the Weimar Constitution of 1919) while avoiding the mistakes of the past. It contains 146 articles, divided into 11 Sections and is introduced by a short preamble.

With the accession of the five newly re-established eastern Länder and East Berlin to the Federal Republic of Germany on 3 October, 1990, the Basic Law became the Constitution of the United Germany.

The Federal President who is elected by the Federal Convention, consisting of the members of the *Bundestag* and an equal number of members elected by the Land Parliaments. Every German eligible to vote in elections for the *Bundestag* and over 40 years of age is eligible for election. The President's term of office is five years. The Federal President also proposes to the *Bundestag* a Candidate for the office of the Federal Chancellor in accordance with the results of the parliamentary elections and on the advice of the Federal Chancellor the President appoints and dismisses the Federal Ministers. Most of the functions of the Federal President are of a purely representational character. The President is a Constitutional Head of State with little influence on government.

Parliamentary System

Germany has a parliamentary system, with a bicameral legislature. The Upper House called *Bundesrat* (the Council of Constituent States), the representation of the 16 Länder, participates in the legislation of the Federation. The *Bundesrat* consists of members of the Länder Governments, which appoint and recall them. At present, the *Bundesrat* headed by its President comprises 68 members.

The *Bundestag*, Germany's Federal Parliament, is the only one of the five constitutional organs which is directly elected. The members of the *Bundestag* are elected for a four year term of

office under system of proportional representation coupled with direct election of candidates in the Constituencies. The main functions of the *Bundestag* are legislation, control of the Federal Government and the election of the Federal Chancellor.

Executive authority rests with the Federal government, led by the Federal Chancellor, who is elected by an absolute majority of the *Bundestag* and who proposes the other Ministers for appointment by the Federal President.

There are currently 24 permanent Committees in the *Bundestag* whose terms of reference basically correspond to the fields of competence of the federal ministries. Their composition, too, is in proportion to the relative strengths of the parliamentary groups.

Electoral System

Any German citizen is entitled to vote provided he has attained the age of 18 years and has resided for at least three months in the country. Any qualified elector who has attained the age of 18 years and has been a citizen for at least one year is eligible to become a Deputy.

Party system

Political parties may be freely formed in all the States (Länder) of the Federal Republic, but their internal organisation must conform to democratic principles, and they must publicly account for the sources of their funds. Parties which seek to impair or abolish the free and democratic basic order or to jeopardize the existence of the Federal Republic of Germany are unconstitutional. In order to avoid parliament being fragmented into a host of parliamentary groups, grouping and individual Members and to increase the chances of forming stable majorities, only parties which have obtained at least 5 percent of the votes for at least three constituency seats may be represented in the parliament.

Some of the major political parties are : Christian Democratic Union, (CDU) Christian Social Union (CSU), Free Democratic Party, (FDP) Social Democratic Party of Germany (SPD), etc.

GREECE

Introduction

The history of Greece can be traced to as early as 300 B.C. when various tribal people emigrated into the Southern Balkan Peninsula in successive waves from Asia Minor. In coming centuries, these settlers fashioned the Minoan and Mycenaean cultures on the Aegean Sea. After the Mycenaeans were overwhelmed around 1100 B.C. by Hellenic tribes from the north, there followed the 300 year long Greek "dark ages". It was during this time of chaos and turmoil that many Greek city-states emerged, the two most prominent being Athens and Sparta. The Greece's classical period, or "golden age" was spanned roughly from the sixth to the fourth centuries of B.C.

In the mediaeval era, Greece came to be under Turkish occupation and gained independence from Turkey in 1821-29. By the protocol of London of February, 1830, it was declared a kingdom under the guarantee of Great Britain, France and Russia.

The outbreak of World War I divided Greeks between the pro-German King and the Liberal Prime Minister, Eleftherios Venizelos who, in 1917, secured Constantine's abdication and Greece's entry into the war on the allies' side and against Turkey. In World War II, Greece repelled an attempted invasion by Italy but was then over run by German forces. The liberation of Greece from the German occupation was followed by a civil war which lasted until 1949. Between 1946 and 1952 there were 16 different govern-

ments. A coup took place on 21st April, 1967 and a military government was formed which suspended the 1952 constitution. Former King Constantine fled from the country in 1967 after the failure of a counter coup initiated by him. The military government collapsed on 23 July 1974 and a new Constitution was introduced in June, 1975, and revised in 1986. Republic was established and monarchy abolished through a referendum organised by the new Government in 1974.

Constitution

Greece is a Parliamentary democracy with a President as head of the State and a Prime Minister as Head of Government. The President appoints Prime Minister the leader of the Party having an absolute majority of seats in Parliament as the Prime Minister. Its governmental and political system is buttressed by the Constitution of 1975, the latest of many fundamental laws dating from 1820s. The most frequent reason for changing the Constitution had to do with the endemic dispute over whether Greece should be a monarchy or republic.

The Constitution effective from June 11, 1975 was drafted in 1974 by a popularly elected legislature following the restoration of civilian rule. Sovereignty emanates from the people. It is to be exercised as specified by the Constitution. Governmental structure and functional responsibilities are broadly divided into three branches : executive, legislative and judicial. In April and May, 1985, the Constitution was amended to ensure that the President remained strictly titular head. A full range of human rights is protected under the Constitution, which states that every person shall have the right to develop freely his or her personality and to participate in the social, economic and political life of the country. All persons residing within the Greek territory may enjoy, "full protection of their life, honour and freedom, irrespective of nationality, race or language and of religious and political beliefs", unless otherwise disallowed by international law. The State calls on all citizens to fulfil the duty of social and national solidarity. The special status of the Church is acknowledged in the Constitution. Work is a right and all workers, irrespective of sex, race etc. are entitled to equal remuneration for equal service rendered. The Constitution provides for amendment of all but the most basic

articles, such as those defining Greece as a Parliamentary republic, those guaranteeing fundamental rights and liberties, and those vesting legislative, executive and judicial powers in appropriate branches of Government.

Government

Under the Constitution of June, 1975, the President is Head of State and is elected by Parliament for a five-year term. The President appoints the Prime Minister the leader of the party having the absolute majority of seats in Parliament and upon his recommendation the other members of the Cabinet. In March, 1986, Parliament approved a series of constitutional amendments divesting the President of his executive powers and transferring them to the legislature.

Parliamentary System

The Unicameral Parliament has 300 members, directly elected by universal adult suffrage for four years. In 1983, measures were introduced to devolve powers of local government to local councils, which eventually were to be directly elected. The executive, legislative and judiciary are the branches of Government. The executive consists of Cabinet Ministers and Cabinet-rank Ministers. Ministers' who need to be members of Parliament, are chosen by the Prime Minister for formal appointment by the President. Together with the Prime Minister, they are collectively responsible to Parliament.

There are permanent and Special enquiry Committees of Parliament. There are 19 permanent committees to consider Bills and 5 to consider internal parliamentary matters, Parliamentary Committees correspond with ministerial departments. They consider Bills referred to them. Parliamentary Committees have 20 to 30 members appointed by the President taking account of relative strength of groups in Parliament. The Chairmen of Committees are elected from amongst their members. The committee Secretariat is provided by the Parliamentary Administration. The Secretariat undertakes administrative functions and prepares documents.

Electoral System

Electoral process, an integral part of the Greek political

system, have played a central role in the peaceful resolution of partisan competition in recent decades-except during the period of military rule from 1967 to 1974. Elections are based on the direct, universal and secret ballot. Voting is compulsory for all citizens aged 18 and above; non-voting is liable to legal penalties. Members of Parliament are elected under a proportional representation system. The national deputies need not belong to any constituency, or contest the election. Under the Greek system of proportional representation a parliamentary majority can be achieved and a government formed even if a winning party fails to secure a simple majority of the popular vote. This is made possible through a method of awarding extra representation, to the parties that obtain a minimum percentage of the national vote. In Greece this particular proportionate system is called "reinforced proportional representation".

By-elections are held in the event of parliamentary vacancies, except in the last year of a parliamentary term. Even if a full 20 percent of parliamentary seats should be vacant, by-elections are held in any case. Such elections have little significance in the Greek political system.

Political Parties/Organisations

The 1975 Constitution gives Greek citizens of voting age the right to "freely form and join political parties". The only requirement is that the organisation activities of the parties "must serve the free functioning of democratic Government." The political landscape of Greece seems to be definite as the main political organisations are : "New Democracy" the ruling party, Panhellenic Socialist Movement, Main Opposition Communist Party of Greece; the Left Wing "coalition for the Progress and Democratic Renewal" (DIANA).

GUATEMALA

The Republic of Guatemala is located in the North-West corner of Central American Isthmus. The region known since 1549 as the Kingdom of Guatemala, declared its independence from Spain in 1821. In 1837, the Guatemalan Rafael Carrera led a peasants revolt which split the federation and he became the country's first President in 1838 until his death in 1865. There was a period of liberal rule from 1871 to 1885, and in 1920 an elected Government replaced a 22 year dictatorship, but was overthrown by a military coup in 1921. The right wing Gen. Jorge Ubico, who took power in 1931 resigned in 1944. The new elected progressive Government of Juan Jose Arevalo Bermejo introduced many economic and political reforms. These policies were continued by government of col. Jacobo Arbenz Guzman elected in 1950. In 1954 an U.S. backed coup replaced Arbenz by the right wing Col. Castillo Armas. There have been four military coups (1957, 1963, 1982 and 1983). In Aug., 1983 Brig-Gen. Oscar Mejia Victores came to power. He organised constituent elections in 1984 and fresh Presidential and legislative elections in Nov., 1985, which were won by Vinicio Cerezo and his party DCG. In Oct., 1987, two months after signing of the Central American Peace Plan talks were held between delegations from the Government and guerrillas. In May and Dec., 88, Military coups against the Government failed. Later there was a transition to democracy.

Constitutional System

A new constitution drawn up by the Constituent Assembly

elected on 1 July, 1984 was promulgated in June, 1985 and came into effect on 14 January, 1986. The new constitution established Guatemala as Republic of Guatemala. Earlier, Guatemala had been governed under a number of constitutions. In the post world War II era the Constitution have been short lived. The 1945 Supreme Law might be called "revolutionary Constitution". In 1965, there was "Military Constitution". On assumption of power on March 23, 1982, the new Government suspended the 1965 constitution and began to rule by decree. This law is titled the Fundamental Statute of the Government and as subsequently modified, continued to function as the nation's constitutional law in mid 1983.

Guatemala has a republican representative democratic system of government and power is exercised equally by the legislative, executive and judicial bodies. Executive power is vested in the President. President is responsible for national defence and security, upholding the Constitution, leading the armed forces, taking necessary steps in time of national emergency, passing and executing laws, international policy, nominating and removing Ministers, officials and diplomats, co-ordinating the actions of Ministers of State. The Vice-President's duties include presiding over Congress and taking part in discussion of the Council of Ministers. For the purposes of administration the territory of the Republic is divided into Departments and further into Municipalities, but this division can be modified by Congress to suit interests and general development of the Nation without loss of municipal autonomy.

Legislature

The legislature power rests with Congress which consists of 116 deputies, 87 of whom are elected directly by the people. The remaining 29 deputies are elected on the basis of proportional representation. Congress meets on 15 January, each year and ordinary sessions last four months; extraordinary sessions can be called by the permanent commission or the Executive.

Electoral and Party System

Suffrage is universal and secret-obligatory for those who can read and write and optional for those who are illiterate. The

President and the Vice-President are elected for a term of 5 years by direct election (with a second round of voting if no candidate secures 50% of the first round votes). Prolongation of the Presidential term of office are punishable by law.

Following the introduction of new legislation in 1983, all political parties were required to disband and reapply for registration. All Political parties were legalised in May, 1985. Some of these are Alianza Democratica, Alianza Popular 5, Central Autentica Nacionalista (CAN), Comité Guatemalteca de Unidad Patriota and Frente Democratico Contra la Represion (FDCR). There are some guerrilla groups also. The principal guerrilla groups unified to form the Unidad Revolucionaria Nacional Guatemalteca. Later on they pledged to end the armed struggle and join the political mainstream.

REPUBLIC OF HUNGARY

The Republic of Hungary lies in the Danube Basin in East Central Europe. Hungary allied itself with Nazi Germany before the Second World War. It was occupied by German forces in 1944 and liberated by Soviet troops in 1945. It became a Republic in 1946. By the end of 1947, the Communist Party had emerged as the leading political force. In 1956, a Budapest student rally in support of Polish effort to win autonomy from the Soviet Union sparked off mass demonstrations. Later on, Imre Nagy came to power. He formed a new government consisting of both communists and non-communists, abolished one party system and promised free elections. In November, 1956 Soviet Army launched a massive offensive, deposed Nagy and installed another government under Kadar. In February 1989, the Hungarian Socialist Workers Party agreed to support the transition to a multi-party system. On 23 October, 1989, a Republic was proclaimed instead of People's Republic declared in 1949. The National Assembly approved fundamental amendments to constitution. In November, 1990, Hungary became a member of Council of Europe.

Constitutional System

The Stalinist Constitution of 1949 was radically amended in October, 1989, simultaneously with the Proclamation of the Republic of Hungary. The amendment still reflected a compromise by declaring that the values of civil democracy and democratic socialism should prevail in equal measure. This formula was removed from the constitution in June 1990. The country restored the multi-party system, Parliamentary democracy and the institu-

tion of President of the Republic, set up a Constitutional Court, re-established the State Audit Office and included in its constitution the institution of *ombudsman* in charge of civil rights and the rights of national and ethnic minorities. The constitution guarantees a wide range of civil rights, recognizes the market economy and the freedom of business competition, and guarantees equal rights and protection for public and private property. The constitution further guarantees the rights of all citizens to initiate referenda and make popular initiatives.

Hungary's head of state is the President of the Republic, who represents national unity.

The President is elected by secret ballot by the Parliament for a term of five years. The President may be re-elected on a single occasion. Any Hungarian citizen over 35 may be a candidate for the post.

The main functions of the President are as follows : he or she is the commander-in-chief of the armed forces; represents the Hungarian state; concludes international treaties; marks a proposal to the Parliament for the Prime Minister; and convenes the opening session of the new Parliament. The President may convene a special parliamentary session, and dissolve the Parliament if the latter votes down the government at least four times in a single year or fails to elect the proposed Prime Minister within 40 days.

The Government consists of a Prime Minister and of ministers. The Government is answerable to the Parliament and is obliged to report on its work regularly. The Prime Minister is elected by the majority of MPs under the proposal of the President of the Republic. The Hungarian Prime Minister has a rather strong position since he or she can only be ousted through a constructive motion of no-confidence. (The motion must include a proposal for the new Prime Minister and must be put forward by at least 20 per cent of the deputies. Should the MPs withdraw their confidence from the Prime Minister in office, the proposed successor is deemed elected.) The Prime Minister makes proposals for the other members of his or her government who are then appointed by the President of the Republic.

Parliament

The Parliament is the highest organ of state authority in the Republic of Hungary. Its 386 members are elected for a four-year term on the basis of universal, equal and direct suffrage by secret ballot of all citizens 18 years of age and over. Exercising all the rights deriving from the sovereignty of the people, the Parliament guarantees the constitutional order of society, determines the organization, direction and conditions of government, approves the constitution and enacts laws. It elects the President of the Republic, the Prime Minister, the members of the Constitutional Court, the *ombudsman* in charge of civil rights of national and ethnic minorities, the president and the deputy president of the State Audit Office, the president of the Supreme Court and the Chief Public Prosecutor.

Legislation may be initiated by the President of the Republic, the Government, any parliamentary committee or any Member of Parliament.

The Parliament holds two regular sessions a year : from February 1 to June 15 and from September 1 to December 15. Special sessions may also be convened at the initiative of the President of the Republic or the Government by a written request of at least one-fifth of the MPs.

Electoral system and Political Parties

The Law on the Election of the Parliament combines voting on individual candidates and party lists. Of the 386 MPs, 176 are elected in individual constituencies and 152 deputies are elected on the 20 regional party lists (in the 19 counties and Budapest). The 58 mandates on the national list are distributed after all residue votes have been totalled. The mandates of the regional and national party lists are available for parties that have won at least 4 per cent of all votes cast in the country.

Six parties emerged from the spring 1990 elections with a least 4 per cent of the vote, entitling them to representation in Parliament. These are : Hungarian Democratic Forum (MDF), Christian Democratic People's Party (KDNP), Independent Smallholder Party (FKgP), Alliance of Free Democrats (SzDSz), Federation of Young Democrats (FIDESz), Hungarian Socialist Party (MSzP).

ICELAND

Introduction

The first settlers mainly of Norwegian origin came to Iceland in late 9th century. It remained an independent republic until 1264 and settled its own parliament (Althing) in 930, but by the "Old treaty of 1263 the country recognised the rule of the King of Norway. On the Union of Norwegian and Danish Crowns in 1280, Iceland came under the rule of Danish Kings. Having remained Danish when Norway was transferred to Sweden in 1814, Iceland experienced national awakening under the leadership of Jon Sigurosson. The revival of Althing (1843) led to limited home rule and the introduction of Universal suffrage. It was united with Denmark only through the common sovereign until it was proclaimed an independent republic on 17 June, 1944 under the Presidency of Sveinn Bjorneson.

Iceland became a founder member of NATO in 1949 and in 1985 the Althing declared Iceland a Nuclear Free Zone. The country hosted U.S.-Soviet Summit in October, 1986.

Constitution

On 24 May 1944, the people of Iceland decided in a referendum to adopt a republical Constitution and it was formally proclaimed as Republic on 17 June, 1944.

According to the Constitution, executive power is vested in the President and the Cabinet, consisting of the Prime Minister and other Ministers appointed by the President. President, who is

elected for four years by universal adult suffrage, has mainly ceremonial duties. In practice, Cabinet holds the real executive power. Under constitution, the President has been granted the right to refer a statute to a referendum.

The Legislative power is held jointly by the President and the Althing (Parliament). The Cabinet is responsible to the Althing.

Government

The Head of the State is the President who is directly elected on the basis of universal adult suffrage for four years. All those who are qualified to cast vote at elections and are 35 years and above are eligible to contest for Presidency. There is a Council of Ministers headed by the Prime Minister and appointed by the President. In Practice, Cabinet holds the real executive power and the ministers are responsible to the Parliament.

Local Governments

The country is divided into Provinces, districts and municipalities. The eight urban municipalities are governed by the Town Council which has got considerable autonomy. The districts also have Councils and are further grouped together to form the Provinces over each of which a centrally appointed Chief official presides. The franchise is universal above the age of 18 and the elections are conducted on a basis of proportional representation.

The present President is *Vigdís Finnbogadóttir* who took office on 1 August, 1980 and became the world's first popularly elected female Head of the State. There is a coalition of the Independence Party and the Social Democratic Party led by Prime Minister is David Oddsson.

Legislature

The Icelandic Parliament, Althing, has sixty three (63) members, elected by a system of proportionate representation from eight multi-member constituencies for a term of four years. The President can dissolve the Althing during this period and can order fresh elections. It is done on the advice of the Prime Minister.

The Parliament is divided into two Houses, the Upper House and the Lower House. The former is composed of one-third of members elected by the whole Althing in Common sitting, the remaining two-thirds form the Lower House.

The budget bills must be laid before the two Houses in a joint sitting but other bills can be introduced in either of the two House. Bills must pass through both Chambers to become law.

The Althing is the most powerful institution. It can make law on any subject within the limits set by the Constitution. It makes and breaks governments. It can make any changes in the draft budget and it elects a considerable number of people to various public offices.

In 1991, Iceland's Constitution was amended, ending the system whereby the Althing was divided into an Upper House and a Lower House and the two Houses were merged to form a unicameral Althing. United Althing elects its own Speaker.

Ministers are responsible to the Althing and may be impeached by it in which case they are tried by the court of Impeachment.

Electoral System

The members of Althing are chosen by direct election from multimember constituencies. In each constituency, seats are allotted to ranked lists, put forward by the political parties according to the proportional representation and single transferable vote system. If an elected member cannot attend Althing sessions for two consecutive weeks, his place is taken by the next person on the party list, thus by-elections are unnecessary.

The voter can only cast his vote for a list and the suffrage is universal for adults who have attained the age of 18 years.

Party System

Though the Constitution does not mention the political parties, their right to operate is guaranteed by the more general clause on the right of association. Most of the post-independence governments were formed by combination of two or more of the main parties. There are four major parties : (1) Independence

Party (IP), a Conservative Party (2) Progressive Party (PP), a centrist party (3) People's Alliance (PA)—a Communists dominated party ; and (4) Social Democratic Party (SDP). Besides there are other minor political parties like; National Preservation Party, Union of Liberals and Leftists, Women's Alliance etc.

INDIA

Introduction

India is a land of ancient civilisation which has a remarkable resilience. Known as Indus valley Civilization, it has close affinity with the ancient civilisation of Mesopotamia and Egypt. India is a land of many religio-cultural diversities and also of Buddha and Gandhi—the two great apostles of peace and non-violence.

For centuries, India remained under subjugation. During the Mediaeval era, first it was ruled by Muslim emperors like Akbar, Jahangir, Shah Jahan and Aurangzeb - and then came the British rule. The first settlements were made by British East India Company in 1600. The company established a formal system of government in 1757 in Bengal and steadily extended its territorial power. The upsurge of 1857-58, frequent wars between the Company and the French and the native princely States led to the Company being brought under the British Government's control. The powers of Company were abolished by the "Government of India Act 1858".

Indian National Congress was formed in 1885. India Nationalist Movement dominated by Mahatma Gandhi in the post World War era identified its goal as Swadeshi, and Swaraj. Gandhiji fought against the foreign rule with his weapon of truth and non-violence. Gandhiji launched his Civil Disobedience Campaign in 1920. In August 1942, Gandhiji launched, "Quit India" Movement

to force the Britishers to leave.

India emerged in the comity of Nations as an independent State and a full member of the Commonwealth on 15th of August, 1947. It became a republic on 26th January, 1950 when the Indian Constitution came into effect.

Constitution

The Constitution of India declares the country to be a Sovereign Democratic Secular Socialist, Republic. India is a Union of States comprising 25 States and 7 Union Territories. Each State is administered by a Governor appointed by the President for five years and each U.T. is administered by the President through a Lt. Governor or an Administrator appointed by him. The powers and prerogatives of the Union and the States are clearly demarcated under the Constitution. States have no power to secede from the Union.

The Constitution guarantees to every citizen the fundamental rights relating to religion, property, culture, education and constitutional remedies. These fundamental rights are enforceable through the Courts of Law. Directive Principles of State policy, though not justiciable are fundamental in the governance of the country. In the preamble, justice social, economic and political, liberty of thought, expression, belief, faith and worship, and the equality of status and of opportunity are enshrined as cherished ideals.

The Constitution provides for single and uniform citizenship and every citizen who is not less than 18 years of age is granted the right to vote.

There is also provision for an independent Judiciary, Comptroller and Auditor General, Public Service Commissions for the Union and the States and the Election Commission headed by a Chief Election Commissioner.

Government

The Head of the Union is the President in whom all the executive power is vested to be exercised on the advice of the Council of Ministers headed by a Prime Minister and responsible to the Lower House of Parliament. The President is elected by an

electoral college consisting of the elected Members of Lok Sabha, the Rajya Sabha and the Legislative Assemblies. His term of office is 5 years and he can be elected for a second term. His election is governed by the Presidential and Vice-Presidential Elections Act, 1952 and Article 54 of the Constitution of India. The real executive is the Council of Ministers with the Prime Minister at its head which is collectively responsible to Parliament. The Prime Minister is the leader of majority party in the House of People (Lok Sabha) and is appointed by the President. Other Ministers are appointed by the President on the advice of the Prime Minister. A Minister who, for a period of six consecutive months, is not a member of either House of Parliament ceases to be a Minister after the expiration of that period. The Vice-President is elected by the Members of both Houses of Parliament for a five year term. His main function is to preside over the sittings of the Rajya Sabha and to officiate for the President in the event of his absence by way of incapacitation, death or any other reason.

Similarly, the system of government in the States is like that of the Union. Executive power is vested in the Governor appointed by the President for a term of 5 years. The Governor acts on the advice of Council of Ministers headed by the Chief Minister who commands majority support in the State Legislative Assembly.

Parliament

The Central Legislature known as Parliament consists of the President, the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). The Council of States or the Upper House consists of not more than 250 members out of which 12 are nominated by the President and others are elected indirectly by the elected members of the Legislative Assemblies of various States/Union Territories. This is a permanent body but one third of its members who have completed a six-year term, retire every second year. The Vice-President of India is the ex-officio chairman of this House.

The House of the People or the Lower House (Lok Sabha) consists of 545 members, of them 543 directly elected on the basis of adult suffrage from as many territorial constituencies through out India and two members are nominated by the Presi-

dent from the Anglo-Indian community. The House continues for a period of 5 years from the date of its first meeting unless it is dissolved earlier. Lok Sabha's term can be extended by one year in an emergency. The Speaker and the Deputy Speaker of the House are elected by the members from among themselves.

Parliament performs the cardinal functions of legislation, overseeing of administration, passing of budget and ventilation of public grievances. The powers of impeachment of President and to remove Judges of Supreme Court and High Courts, Chief Election Commissioner and Comptroller and Auditor General are also vested in Parliament. All Legislation requires consent of both the Houses but in the case of money bills, the will of the House of Peoples prevails.

State Legislatures

For each States, there is a legislature consisting of the Governor and the two Houses, Legislative Assembly and a Legislative Council in five of the States and one House, Legislative Assembly in remaining States. The Members of Legislative Assembly are directly elected from the territorial constituencies of that State. The Legislative Assembly functions for five years unless dissolved earlier. Legislative Council is a permanent body and one-third of its members retire every second year after serving a six-years term.

Reservations in Legislatures

There is a provision for some seats to be reserved for Scheduled Castes and Scheduled Tribe candidates in the House of People as well as in the State Legislative Assemblies. The seats initially reserved for a period of 10 years from the date of the commencement of the Constitution were extended up to 25.1.2000 by the Constitution (sixty second Amendment) Act, 1989.

Committee System

There exists a well organised Committee system to assist Parliament in its functioning, as the functions of Parliament are varied in nature and the time at its disposal is limited. There are two kinds of committees; Standing Committees and *Ad-hoc* Committees. Among Standing Committees, there are three financial

Committees-Estimates, Public Accounts and Public Undertakings, and seventeen departmentally-based Committees. Other Standing Committees in each House are Committee on Petitions, Committee on Privileges, Committee on Government Assurances, Rules Committees, Business Advisory Committee, Committee on the Welfare of Scheduled Castes and Scheduled Tribes etc.

Ad-hoc Committees are : (1) the Committees which are constituted from time to time to enquire into and report on specific subjects and (2) Select or Joint Committees on Bills to consider and report on a particular Bill.

Besides the above Parliamentary Committees, there is one Consultative Committee attached to every Ministry, comprising members of Parliament drawn from both the Houses to permit contacts between Members and Ministers and to foster closer acquaintance of members with the principles, problems and working of government policies.

Electoral System

Indian electoral system is a mix of simple majority vote and the proportional representation by means of a single transferable vote. While elections to the Lok Sabha, Legislative Assemblies of various States and local bodies are direct and are decided on the basis of simple majority vote, the system of proportional representation is in vogue for elections to the office of the President and the Vice-President, and Membership of the Rajya Sabha and Legislative Councils of the States in which the State Legislature is bicameral.

The authority responsible for superintendence, control and direction of elections in the country is Election Commission of India, which is headed by the Chief Election Commissioner. At the State level, the authority is Chief Electoral Officer. The Election Commission enjoys a constitutional status and is independent of the executive.

Elections are conducted on the basis of universal adult suffrage and the principle of one man one vote. All those citizens, who are 18 years or above in age, have a right to vote, provided they do not suffer from certain other disabilities. To be a candidate for a public office a person must be a citizen of India and 35

years or more in age for the office of the President; 30 years or more for membership of the Rajya Sabha and 25 years or more for the membership of Lok Sabha, State Legislative Assemblies and local bodies.

Political Parties

Elections in India are contested on Party symbols as well as in an individual capacity as an independent candidate. Under the Representation of the People's Act, Political Parties are required to be registered with the Election Commission. There is multi-party system in India. Prior to 1947, Indian National Congress was the leading nationalist group, other major political force being Muslim League. The main opposition party at the Centre at present is Bhartiya Janata Party. The other major National Political parties are : Communist Party of India (CPI), Communist Party of India (Marxist), Janta Dal, etc. Besides the national parties, there are regional political parties functioning in various states such as : Akali Dal, All India Anna Dravida Munnetra Kazhagam, National Conference, Telugu Desham etc.

INDONESIA

Introduction

The Republic of Indonesia consists of group of about 13,700 islands, lying between the mainland of South-East Asia and Australia. It is largest archipelago in the world.

Indonesia was formerly the Netherlands' East Indies, except for the former Portuguese Colony of East Timor. The Dutch occupation began in the 17th century and gradually extended over the whole archipelago. Nationalist opposition to Colonial rule began in the early 20th century. During the Second World War, the territory was occupied by Japanese forces from March, 1942. On 17th August, 1945, three days after the Japanese surrender, a group of nationalists proclaimed the independence of Indonesia. The first President of the self-proclaimed republic was Dr. Sukarno, a leader of the nationalist movement since 1920s. The Declaration of Independence was not recognized by the Netherlands, which attempted to restore its pre-war control of the islands. After four years of intermittent warfare and negotiations between the Dutch authorities and the nationalists agreement was reached on a formal transfer of power. On 27 December, 1949 the United States of Indonesia became legally independent, with Dr. Sukarno continuing as President. Initially, the country had a federal Constitution which gave limited self-government to the 16 Constituent regions. In August, 1950, however, the Federation was dissolved and the country became the Unitary Republic of Indonesia, on 17 August 1950. East Timor became independent from Portuguese Rule and

became Indonesia's 27th Province in July 1976.

Constitutional set-up

The present constitution was originally adopted in August 1945, when Republic of Indonesia was proclaimed. The various Articles of the Constitution spell out the ideals and the goals for which Independence was proclaimed and defended thereafter. Besides the Preamble, the Constitution contains 37 articles, four clauses and two additional provisions.

The highest executive of the Government, the President, holds office for a term of five years and may be re-elected. As Mandatory of the MPR (People's Consultative Assembly) he must execute the policy of the State according to the Decrees determined by the MPR during its Fourth General and Special Sessions. In conducting the administration of the State, authority and responsibility are concentrated in the President. The Ministers of the State are his assistants and are responsible only to him.

Parliamentary System

The Parliament consists of People's consultative Assembly and the House of Representatives. However the sovereignty rests with the people and is exercised in full by the People's Consultative Assembly on their behalf over for their welfare. The Consultative Assembly is the highest authority of the State, and is to be distinguished from the legislative body proper which is incorporated within the Consultative Assembly. The Consultative Assembly with a total of 1,000 members, is composed of all members of the Dewan, augmented by delegates from regions, members of political organisations and representatives of other groups. The Assembly sits at least once every five years. It also elects the President and Vice-President, who are responsible for implementing that policy.

The legislative branch of the State, the House of Representatives, sits at least once a year. It has five hundred (500) members, 100 of whom nominated by the President and 400 elected directly. Every statute requires the approval of the DPR. Members of the House of Representatives have the right to submit draft bills which require ratification by the President, who has the right

of veto. In times of emergency, the President may enact ordinances which have the force of law, but such Ordinances must be ratified by the House of Representatives during the following session or be revoked.

The Committees are formed by the House to serve as its permanent organs. The House has generally 17 Committees each with a scope of duties. There are *Ad Hoc* Committees, Committee for Inter- Parliamentary Co-operation and Householld Committee and steering Committee too.

Electoral System

The President and Vice President are elected by the People's Consultative Assembly, which has 1000 members who serve for five years. It includes 500 members of the House of Representatives. The remaining 500 seats in the Assembly are allocated to regional representatives members of the Armed Forces belonging to Sekber Golkar, and delegates of other organizations, selected in proportion to their elected seats in the House.

Party System

In Indonesia political activities were channeled through a system to which General Suharto has called "the three legitimate political organisation"—the ruling Golkar a federation of groups representing youth, labour, farmers, women and others, was actually dominated by active and retired officers and the two opposition parties—the Development Party (PPP) Composed of various Muslim groups, and the Indonesian Democratic Party (PDI), organized by nationalist and christian elements. The politics of opposition has become more nominal than real because of the susceptibility of some opposition members to government tactics of persuasion and co-optation.

IRAN

Introduction

During its long history, Iran has developed its own great persian civilization. which was identified as one of the world's richest civilization. On 1906, the first constitution was adopted.

Following widespread uprising of the people against the despotic Pahlavi regime, the Shah left Iran on 17th January, 1979. The Islamic Revolution led by the Ayatollah Ruholla Khomeini, spiritual leader of the Muslim, after a long Struggle of 15 years became victorious. On 1st April, 1979 in the referendum through the affirmataive note of a majority of 98.2% of eligible voter, the Islamic Republic was established.

In September, 1980, war began with Iraq resulting in destruction of some Iranian towns. A U.N. arranged ceasefire took place on 20th August, 1988 and U.N. sponsored peace talk continued in 1989. which finally resulted in peace, & UN Secretary General reported to UN Security Council that Iran was the victim of an aggression.

Constitution

The Constitution for the Islamic Republic of Iran was approved by a referendum on 28th July, 1989.

According to the Constitution, Iran is an Islamic Republic and the spirituality and ethics of Islam are to be the basis for

political, social and economic relations. Different communities enjoy completely equal rights.

There is provision for the Guardian Council for the protection of the constitution consisting of six religious lawyers and six lawyers elected by the Islamic Consultative Assembly from among Muslim jurists nominated by the Head of judiciary.

Basic rights of individuals and equal human, political, economic, social and cultural rights for both the sexes are provided in the Constitution.

Press is free except in matters that are contrary to public morality and insult religious beliefs. The formation of religious, political and professional parties, associations and societies is allowed provided, they do not negate the principles of independence, freedom, sovereignty and national unity or the basis of Islam.

The Constitution provides for the establishment of leadership by a Wali Faquih (Supreme Religious Jurist) possessing the necessary qualifications and recognised by the people.

An amendment to the Constitution approved in 1989 increased the powers of the President by abolishing the post of Prime Minister.

Government

The Government functions under the supervision of the Wali Faqih (the country's spiritual leader) though not formally a part of the Government. The duties and powers of the Wali Faquih includes inter-alia delineation of the general policies of the Islamic Republic of Iran after the consultation with the Nation's Exigency Council, and supreme council for National Security assuming the supreme command of the Armed Forces, appointment, dismissal and acceptance of resignation of (a) The Faqaha on the Guardian Council (b) The Supreme judicial authority of the country, supervision over the proper execution of the general policies of the system. The President holds the highest position after the Faquih and is elected by universal adult suffrage for four years. The President appoints the ministers subject to the approval of the legislature. The executive, legislative, and judicial wings of the

State power are subject to the authority of the Wali Faqih (religious leader).

The Present government is headed by President Hojatolislam Ali Akbar Hashemi Rafsanjani and the religious leader (Wali Faqih) is Ayatollah Sayed Ali Khomeini.

Local Government

Iran is divided into 24 provinces each under a "Ostandar" (Governor General) and further sub-divided into 195 cities each under a "Farmandar" (Governor) and then into 500 districts. Each village also has an elected Dehdar (headman).

Legislature & Electoral System

The President, who is elected by universal adult suffrage for a term of four years is the Chief executive. He can be elected for a second term and can be removed only by Faqih. upon the suggestion of the Islamic Consultative Assembly in view of his political incapability. Legislative power is held by Majlis (Islamic Consultative Assembly) comprising 270 members who are elected for a four year term. Provision is made for the representation of Zordastrians, Jews and Christians.

The Guardian Council for the protection of the Constitution should ensure that all legislation passed by Majlis is in accordance with the constitution and Islamic percepts. It has the responsibility of supervising the elections of the Assembly of the Experts for leadership, the President of the Republic, the Islamic Consulative Assembly and the direct recourse to popular opinion and referenda.

The members of Council serve six-year term with half of the members being changed every three years.

The Assembly of experts comprising 83 clerics elects the successor of the Wali Faqih. It is popularly elected every eight years. Candidates for the election are examined by the Guardian Council.

There is a Nation's Exdgency Council consisting of heads of three branches of Government, Foqaha (religious lawyers) of the Guardian Council, and three members of the Islamic Consultative

Assembly appointed by Wali Faqih. It is powered to arbitrate on legal and theological questions involved in the legislation enacted by the Majlis in the event of a dispute between the latter and the Guardian Council. Also the Council shall for consideration any issue forwarded to it by the leader.

Party System

The Constitution recognise multi-party polity. According to Article-26 of the constitution of the Islamic Republic of Iran, the formation of parties, societies, political or professional associations, as well as religious societies, whether Islamic or pertaining to one the reorganised religious minorities, is permitted, provided they do not violate the principles of Independence, freedom, national unity, the criteria of Islam, or the basis of Islamic Republic. No one may be prevented from participating in the above mentioned groups, or be compelled to participate in them.

IRAQ

Introduction

Iraq was a part of Ottoman Empire from the 16th century and was captured by the British forces in 1916. In 1921, it became a Kingdom under a League of Nations mandate, administered by Britain. Iraq became independent on 30 October, 1932 under Hashemite Dynasty, which was overthrown on 14 July, 1958 by a military coup which established a Republic. In 1968, the Ba'ath Party seized power and established the Revolutionary Command Council (RCC) as government. On 16 July 1979, Vice-Chairman of R.C.C. Saddam Hussain became its Chairman and the President.

Constitution

The Provisional Constitution was published on 22nd September, 1968 and was promulgated on 16th July, 1970.

The Iraqi Republic is a democratic and sovereign State. Islam is the State religion. The political economy is founded on socialism. Under the Constitution, liberty of religion and freedom of speech and opinion are protected. Public meetings are permitted. Discrimination based on race, religion or language is forbidden. There is freedom of press and the right to form societies and trade unions, in conformity with the law, guaranteed.

The Constitution confirms the nationalistic rights of the Kurdish people and the legitimate rights of all other minorities within the framework of Iraqi unity.

The highest authority in the country is Council of Command of the Revolution (R.C.C.) which exercises its prerogatives and powers by a two-thirds majority. The President who was already Head of the State and the Government also became the Supreme Commander of the Armed Forces and the President of R.C.C. by an amendment to the constitution in 1979.

The President and the Vice-President are elected by a Two-third majority of the Council and they, alongwith the members of the Council, are responsible to the Council. The Prime Minister and other ministers are responsible to the President.

Kurdish majority areas enjoy autonomy in accordance with the law.

Government

The President is the Head of the State and Chief Command of the Armed Forces who assumes the executive power either directly or through the Cabinet. He is elected by the Regional Command of Hab Ba-ath Socialist Party as Chief of the R.C.C.

The Cabinet headed by the Prime Minister is appointed by the President who represents the executive power of the State.

The real power rests with the President and the R.C.C. while the routine administration of the country is undertaken by the Council of Ministers. Legislative responsibility is shared between R.C.C. and the 250 members unicameral Legislature, the National Assembly.

The country is divided into 18 provinces administered by Centrally appointed officials. The Predominantly Kurdish areas in the north, consisting of three governorates have been granted limited autonomy. Each Governorate is headed by a Governor with wide powers. The present government is headed by President Saddam Hussain who assumed power on 16th July.

Legislature

The legislative powers are shared by the Revolutionary

Command Council and the National Assembly. The Chairman of the R.C.C. is the President. He is elected by the Regional Command of Arab Ba-ath Socialist Party (ruling party) as the Chief of R.C.C. This is the most powerful body. It approves Government's recommendation concerning national defence and internal security. The Chairman of the R.C.C. who is also President signs all laws and decree issued by R.C.C. and supervises the work of Ministers.

The National Assembly comprising 250 members is elected every four years by universal adult suffrage by a system of proportional representation. The National Assembly can introduce and pass laws, discuss foreign and domestic policy, question ministers and propose their dismissal to the R.C.C. However, it cannot interfere in matters of defence and internal security and cannot question R.C.C. members.

Kurdish Legislative Council consisting of 50 members, is elected by direct free and secret ballot. Technically the Vice-President of Iraq is the Chairman of this Council who is appointed by the President.

Electoral System

Members of the National Assembly are elected by secret ballot for four years. All Iraqi citizens over eighteen years of age are eligible to vote at the Assembly elections. To qualify for the elections, a person must be atleast 25 years of age, must be an Iraqi by birth, must not be married to foreigners and must have Iraqi parents. The qualifications of all candidates must be reviewed and be approved by a government-appointed Election Commission.

The President is elected by the Revolutionary Command Council by a two-third majority from among its members. He must be a native-Iraqi born.

Party System

The ruling party in Iraq is Arab Ba-ath Socialist Party which is in power since 1968. Arab Ba-ath Socialist Party had an alliance with the Iraqi Communist Party and thus formed National Progressive Front.

Other parties like Kurdistan Democratic Party, Kurdistan Revolutionary Party, and National Progressive Front. There are several unrecognised opposition groups including Ad-Dawa al-Islamia, the Iraqi Communist Party which left the National Progressive Front in 1979, and Umma (National) Party founded in 1982 also oppose Saddam Hussain's regime.

IRELAND

Introduction

The Irish State consists of 26 of the 32 counties which comprise the island of Ireland. The remaining six counties in the north-east, from Northern Ireland, which is part of the United Kingdom.

The whole of Ireland was formerly part of the United Kingdom. In 1921, after a War of Independence, the Anglo-Irish Treaty was signed conceding dominion status within the British Commonwealth to 26 counties of Ireland, as the Irish Free State. The Constitution of the Irish Free State came into operation on 6 December 1922. Certain provisions which were regarded as contrary to national sentiments were gradually removed by successive amendments with the result that by 1937 the text differed substantially from that of the original document. In 1937 a new Constitution was adopted, by referendum, declaring Ireland to be a sovereign, independent, democratic state. The Republic of Ireland Act 1948 severed Ireland's last formal links with Britain. Ireland became a member of the United Nations in 1955 and joined the European Community in 1973.

Constitutional set up

The Constitution of Ireland sets out the form of Government and defines the powers and functions of the President, both Houses of Parliament and the Government. It also defines the structure and powers of the Courts and sets out the fundamental

rights of citizens.

The President, elected by direct suffrage, is the Head of the State and holds office for a period of seven years.

The Executive Power of the State is exercised by the Government, which consists of no fewer than seven and not more than 15 members. The Head of the Government is the Taoiseach (House of Representatives). All members of the government must be members of either the *Dail* or *Seanad* (Senate).

Parliament System

Ireland is a Parliamentary democracy. Its law is based on common law and legislation enacted by Parliament under the Constitution. Regulations of the European Communities have direct application in Ireland.

The National Parliament (*Oireachtas*) consists of the President and two Houses: a House of Representatives called *Dail Eireann* and a Senate called *Seanad Eireann*. The sole power of making laws for the State is vested in Parliament. All laws passed by Parliament must conform to the Constitution.

The *Dail* is composed, at present, of 166 members, known as *Teachtai Dala* or TD's. The maximum life of the *Dail* is prescribed by the Constitution is seven years but a shorter period may be fixed by law. The present law provides for a maximum period of five years but the *Taoiseach* may recommend dissolution at any time. The *Dail* is summoned and dissolved by the President who is empowered to refuse a dissolution only where the *Taoiseach* has failed to retain a majority in the *Dail*. The business of the *Dail* falls into four broad categories: consideration of proposal for legislation; consideration of State expenditure; discussion of motions; Parliamentary questions.

The *Seanad* is composed of sixty members. A general election to the *Seanad* must take place no later than ninety days after the dissolution of the *Dail*. The main functions of the *Seanad* is the consideration of legislation passed by the *Dail*.

Every citizen over 21 years of age who is not disqualified by the Constitution or by any other law is eligible for membership of the *Dail* and *Seanad*. Each House elects its own Chairman to

preside over its sittings.

The Oireachtas (National Parliament) establishes a number of Committees, consisting of members of one or both Houses, to deal with certain aspects of its works. A Committee may consider only a matter referred to it by the House(s) through its orders of Reference. Committees are not empowered to make final decisions. They prepare reports on the matters examined for the information and assistance of the House. Certain Committees are required under Standing Orders to be appointed by each new Dail and Seanad. In addition to these Standing Committees a member of ad hoc Committees are usually established to deal with specialised subject matters.

Electoral and Party System

Irish and British citizens over the age of 18 years who are resident in the country are entitled to vote at Dail election. Voting is by secret ballot and on the system of proportional representation by means of the single transferable vote.

By-elections are held to fill seats which fall vacant between general elections.

The 166 members of the Dail are, at present, returned by 41 electoral areas or Constituencies.

The Seanad consists of 60 members : Eleven of whom are nominated by the Taoiseach; three are elected by the National University of Ireland and three by the University of Dublin, the remaining 43 are elected from five panels formed of people with knowledge and practical experience of certain interests and services.

Some of the parties are : Flanna Fail; Labour Party; Workers party, Progressive Democrats; Fine Gael; etc.

ISRAEL

Introduction

The establishment of the State of Israel in 1948 served as the fruition of the Zionist dream of recreating an independent Jewish state in the land of Israel, the birthplace and long standing homeland of the Jewish People.

Palestine came under the British Mandate after the First World War and the Balfour Declaration of the British Government favoured "the establishment in Palestine of a National Home for the Jewish People". Successive waves of Jewish immigrants arrived between 1919 and 1939. In the wake of the Second World War, during which Nazi Germany systematically carried out the ex-termination of six million Jews, the UN voted for the partition of Palestine.

The state of Israel was established on the 15th of May 1948 and was attacked by its Arab neighbours who rejected the UN resolution. Since then Israel has been forced to fight its Arab neighbours six times in order to reserve its independence and security.

However, in 1979 Egypt and Israel signed a peace treaty which was followed by the establishment of full diplomatic relations between the two countries. Since 1991, with the convening of the Madrid Conference, serious negotiations between Israel and its neighbours including the Palestinians, have been undertaken at the Bilateral and Multilateral levels.

Constitution

Israel has no written constitution although it has developed an operative constitution embodied in a set of Basic Laws reflecting the social context upon which the state is based. Enacted individually over a period of years, these laws do not constitute a formal constitution but do set out the framework and powers of the executive, legislative and judicial branches of government and regulate areas of particular importance to Israel's polity such as the state's economy and lands, civil-military relations and the status of Jerusalem.

The Basic Laws are adopted by the Knesset in the same manner as other legislation. Their constitutional import is derived from their nature and, in some of them, from the inclusion of "entrenched clauses" which require a special majority to amend.

Two additional Basic Laws, on human rights and legislation, are currently under consideration in the Knesset.

Other instruments considered to be of a constitutional nature are the Declaration of the Establishment of the State of Israel and several select laws, including the Law of Return, which encapsulates the *raison d'être* of the Jewish state.

The Presidency

The president, "nasi" in Hebrew, bears the ancient title of the head of the "Sanhedrin", the supreme legislative and judicial body of the Jewish people in the Land of Israel in ancient times.

Presidential duties are mostly ceremonial and formal. They include calling on a Knesset member to initiate the process of forming a new government following elections or the resignation of the previous government, accepting the credentials of foreign envoys, signing treaties and laws adopted by the Knesset, appointing judges, the governor of the Bank of Israel and heads of Israel's diplomatic missions abroad, on recommendation of the appropriate bodies, and pardoning prisoners and commuting sentences, on advice of the Minister of Justice.

The president, who may serve two consecutive terms, is elected every five years by a simple majority of the Knesset from among candidates nominated on the basis of their personal stat-

ure and contribution to the state.

Political Parties

The country's political life is characterized by a proliferation of parties reflecting a wide range of out looks and beliefs, with two major blocs : Labor, composed of social-democratic elements, and the Likud, consisting of centrist and nationalist parties. Most of the parties represent fundamental philosophy or religious convictions, some were established in response to national challenges or particular subjects, others have emerged to represent special interest groups. Splits and mergers, based mainly on ideological issues, are not uncommon.

The Israel Labour Party led coalition governments until 1977 when the Likud came to power. From 1984 to 1992 Israel was governed by national unity governments or by narrow coalitions headed by the Likud party. The result of the general election of June, 1992 was the formation of a government led by the Labour Party in coalition with the Meretz and Shas parties.

Elections

Elections to the Knesset are based on a vote for a political party rather than for an individual. They are universal, country-wide, secret and proportional. Every citizen is eligible to vote from age 18 and to be elected from age 21. The president, the state comptroller, judges and senior public officials, as well as the chief-of-staff and high-ranking military officers, are disqualified from presenting their candidacy, unless they have resigned their position at least 100 days before the elections.

Before elections, each party presents its platform and list of candidates. Parties represented in the out going Knesset automatically stand for re-election, other parties may present their candidacy by obtaining the signatures of 2,500 eligible voters and depositing a bond, which is refunded if they succeed in receiving at least one and one half percent of the national vote, entitling them to one Knesset seat.

A treasury allocation for election campaigns is granted to each party based on its number of seats in the outgoing Knesset. New parties receive a similar allocation retroactively for each mem-

ber elected. The state comptroller reviews the disbursement of all campaign expenditures.

A central elections committee, headed by a Supreme Court judge and including representatives of the parties holding seats in the Knesset, is responsible for conducting the elections. On election day, each voter casts a ballot for one party, its platform and list of candidates as a whole. The entire country is a single electoral constituency. Knesset seats are assigned in proportion to each party's percentage of the total national vote and allocated to candidates according to the sequence in which they appear on their party's list.

Elections to the local authorities are normally held at the same time as elections to the Knesset. Currently, there are six administrative districts with 46 municipalities, 143 local councils and 54 regional councils.

The Parliamentary System

The Knesset a unicameral House, is Israel's parliament. It took its name and fixed its membership at 120 from the Knesset Hagedolah (Great Assembly), the representative Jewish body convened in Jerusalem by Ezra and Nehemiah in the 5th century BCE.

The Knesset's function is to legislate and oversee the workings of the government. It operates in plenary sessions and through ten standing committees, each dealing with a specific aspect of the country's affairs. These committees are elected by the Knesset to reflect party\group balance. Chairmanship of the committees is distributed between opposition and ruling coalition parties. Committees can summon witnesses, including government officials and ministers, and they may call for documents. Knesset debates are conducted in Hebrew, but members may speak Arabic, as both are official languages, simultaneous translation is available in both languages.

In plenary sessions, general debates are conducted on government policy and activity, as well as on legislation submitted by the government or individual Knesset members. To become law, a bill must pass three readings in the Knesset : After the first reading, it is referred to the appropriate committee for discussion,

at the second, it is reviewed in plenary session, at the third, a final vote is taken. The minister concerned, the prime minister and the president sign the bill into law.

The Knesset is elected every four years, but may dissolve itself and call for new elections before the end of its term. Until a new knesset is formally constituted following an election, full authority remains with the outgoing one.

Government

The government is responsible to the Knesset and subject to its confidence. Its policy-making powers are very wide with respect to all major aspects of the country's life. The government is headed by a prime minister, who must be a Knesset member; other ministers need not be, though usually are. Most ministers are assigned a portfolio and head a ministry; others serve without a portfolio but may be called upon to take responsibility for special projects. The number of ministers is not fixed and varies from government to government.

Following each election, the president calls on a Knesset member, usually the leader of the party with the largest Knesset representation, to form a government and to head it. Twenty-one days are allotted for this task; if no government is formed in this period, the president may grant an extension or turn to another Knesset member. This procedure is repeated as many times as necessary until a government is formed.

Since the government requires the Knesset's confidence to function, it must be approved by at least 61 of the 120 members. To date, no party has received enough Knesset seats to be able to form a government by itself; thus, all Israeli governments have been based on coalitions of several parties, with those remaining outside the government making up the opposition.

The difficulties inherent in reaching agreements among parties before a government can be formed have stimulated and need for change. A bill calling for direct election of the prime minister, who may appoint half the government ministers from non-partisan circles, was passed in March, 1992 and will go into effect as from the next elections (14th Knesset).

ITALY

Introduction

On 2nd June 1946 an institutional referendum was held for the people to choose between monarchy and republic. Direct elections for the Constituent Assembly were also held on the same day. On June 10 1946 the Court of Cassation announced that a majority of the voters at the referendum had voted for a Republic (54.26% against 45.72% for monarchy). In May 1946 Vittorio Emanuele III had abdicated in favour of his son Umberto II who, after the results of the referendum were proclaimed, went into permanent exile.

Constitutional System

The Constitution of Italy was passed by the Constituent Assembly by 453 votes to 62 on 22 December 1947 and it came into force on 1 January 1948. The Constitution consists of 139 articles and XVIII transitory and dispositions. The constitution of Italy vested Sovereignty in the people and founded a political and social order based on a plural democracy. Of essential importance are the affirmation of the political and social rights and duties of the citizen, the recognition of the role of political parties and trade unions, institutional pluralism, political and administrative decentralization and protection of minorities. Not only are the essential principles of political democracy dealt with but also those of economic and social democracy. The Constitution also sets out the means of achieving the chosen plural democracy

through political, economic and social solidarity and the fundamental equality of citizens regardless of sex, race, language, religion, political opinions, personal and social conditions. The Constitution guarantees such civil rights as personal liberty, the inviolability of the home, freedom of speech, freedom and security of correspondence, freedom of travel and to associate, freedom of the press and due process of law. It also charges the State with improving the quality of life and with contributing to the development of the individual through the elimination of obstacles to health, employment and education. Thus the Constitution includes both specific legal norms and broader ideals that set general goals to be pursued by future executive and legislative actions.

The explicit reference in Article 7 of the Constitutions to the Lateral Pacts of 1929 between the Italian State and the Catholic Church safeguarded the relations between two "independent and sovereign" entities. The revision of the Concordat took place in February 1984 and it provides a new base between the State and the Catholic Church, stimulated by the desire for religious freedom and leaving behind the formula of the "catholic religion as the official religion of the State". Such a fundamental change produced a new atmosphere in the relationship of the two parties.

The Constitution requires a special procedure for amendment. An amendment must be passed by two separate votes at least 3 months apart in the bicameral Parliament. A plurality in each House is required on the first vote, an absolute majority in each House is required on the second. Furthermore there are constitutional provisions for a national referendum on proposed amendments that do not require at least a two-thirds majority on the second vote in each House.

The Republican form of State cannot be subject to Constitutional amendment.

Italy has declared itself opposed to offensive war for the resolution of international disputes and recognizes the legitimate rights of properly acknowledged peoples. The country's Constitution makes provision for the execution of treaties agreed with foreign States, for associating internationally with other countries in the search for peace, progress and justice and offers asylum in Italy to those unjustly persecuted in their own countries.

Foreigners in Italy have the same fundamental liberties and civil rights enjoyed by all persons, including those relating to international acts and conventions that extend to non-citizens.

Italy belongs to the leading international organizations; the United Nations Organization and its various Agencies; International Labour Organisation, North Atlantic Treaty Organisation; International Atomic Energy Agency; International Monetary Fund; Organization for Economic Cooperation and Development; and the Council of Europe. Of particular significance has been Italy's membership of the European Communities: the European Coal and Steel Community instituted in Paris in 1951; Euratom or the European Atomic Energy Community and the European Economic Community instituted in Rome in 1957.

The Parliament

The Italian Parliament consists of two Assemblies: the Senate and the Chamber of Deputies. The number of Members, directly elected by the people, is of 315 for the Senate and 630 for the Chamber of Deputies.

Constitutionally the powers of the two Houses are equal and do not represent distinct social interests. The President of the Republic can nominate five life-time Senators among citizens who have highly honoured the country in the social, scientific, artistic and literary fields. Former Presidents of the Republic are automatically life-time Senators.

Both Houses are elected for a term of 5 years. Each House elects its President.

The Houses meet on the first working day of February and October. An extraordinary meeting of one House can be called by its President, the President of the Republic or by two-thirds of its Members. In that case the other House must also assemble.

It is the Parliament that holds the legislative functions which is exercised collectively by the two Houses.

Laws can be proposed by the Government, a Member of either Houses and such organizations as empowered to do so by the Constitution (such as Regional Councils or the National Council for Economy and Labour, for laws on financial and labour

matters) or by 50 thousand electors.

Proposed Laws must be approved by in the same form by both Houses independently.

The text of a proposed Law is first examined by the relevant parliamentary Committee and then by the House. Once a proposed Law is approved by both Houses, it is promulgated within a month by the President of the Republic.

A referendum for the scrapping of a Law or a part of a Law is held when requested by 500 thousand electors or 5 Regional Councils. The proposal of a referendum is approved if the majority of electors has participated in the voting and if the majority of those voting has expressed its vote in favour of such proposal.

The Parliament exercises functions of political and financial control over the Government and the public administration. Political control is exercised through the use of parliamentary vote of no confidence. However, in the actual functioning of the constitutional model, Parliament does not make use of this formal instrument to force a confrontation between majority, opposition and Government. It almost always happens that a 'crisis' is provoked by political relations within the majority coalition, which is then followed, if not resolved within the coalition, by the Government's resignation.

Financial control is exercised by Parliament having to give some acts formal approval. Among these is the state balance, consisting of the estimated budget, the final budget for the previous year and the finance Laws.

Parliamentary Groups and Committee System

The Senators and Deputies must declare to which Parliamentary Group they intend to belong. Any political group consisting of at least ten senators and twenty deputies has the right to be represented in Parliament as Parliamentary Groups. If there are not sufficient numbers to form an Independent Group, individual Senators and Deputies not adhering to any established Group are entered into a Mixed Group. Parliamentary Groups, which feature as representatives of political factions within the sphere of parliamentary institutions, form an important element

in both organizing the work of the Assembly and that of its Committees. Furthermore, it is consultation among the leaders of these Groups that selects the programme of work and its calendar.

Much parliamentary work is carried out by Committees that are internal organs of both Houses. The members of the Committees are designated by each Parliamentary Group so as to reflect the proportions of the political groups represented in the House. These are Standing Committees; they are formed at the beginning of the legislature and can make Laws and exercise control over policy and information in their respective fields.

The Committees are organized by legislative or policy fields. Those of the Chamber of Deputies include; constitutional affairs, affairs of the Presidency of the Council of Ministers and internal affairs; justice; foreign affairs; defence; budget, treasury and planning; finance; culture, science and education; environment, territory and public works; transport, posts and telecommunications; productive activities, commerce and tourism; public and private labour; social affairs; agriculture.

Those of the Senate include constitutional affairs, affairs of the Presidency of the Council of Ministers and internal affairs; justice; foreign affairs and immigration; defence; economic planning and budget, treasury and finance; culture, scientific research, education, sport and the performing arts; public works and communications; agriculture and food processing; industry, commerce and tourism; labour and social welfare; hygiene and health; territory and environment.

While Committees' Chairmen have significant control over legislation in that they have sole power to convene their Committees and set the Committee's agenda, still they do not enjoy the subpoena, hearing or investigative powers.

Government

According to the principles of 'parliamentary government' enshrined in the Constitution, the Government assumes the power of political decision with the consent of Parliament, which is expressed by a vote of 'confidence' in the Government by the two Chambers.

When a Government 'crisis' occurs, the President of the Republic engages in political consultations with both individual state figures (former Presidents of the Republic, the Presidents of both Houses and former "Prime Ministers") and representatives and delegations of political parties, at the end of which he entrusts the creation of a Cabinet to the designated "Prime Minister". The latter accepts provisionally till he has established the possibility of forming a Government. When he is confident that the Government so established can be supported by the majority of the Members of the two Houses, the President nominates him to be "President of the Council of Ministers" (Prime Minister). Within 10 days the Government must present itself to the Houses who provide the vote of 'confidence'.

The Government is composed of the President of the Council of Ministers (Prime Minister) and the Ministers who, together, constitute the Council of Ministers. Also belonging to the governmental body are the "*Sottosegretari di Stato*" (Ministers of State) - nominated by decree by the Head of State on the proposal of the Prime Minister - who collaborate with the Ministers on the basis of the latter's personal delegation.

Various Ministers participate jointly in the inter-ministerial Committees, some of which have assumed particular importance such as that on prices (CIP), that on economic planning (CIPE) or that on credit and savings (CICR).

It is the Government who holds the executive function. The Prime Minister co-ordinates the actions of the ministries and unity of the general political direction, which is his first responsibility. The Council of Ministers decides on all the general policies of the Government.

The Government also holds some normative powers: it decides the form of Laws to be proposed to the Head of State, who must authorize their presentation to the Houses, and it approves Laws by Decree in cases of emergency and legislative Decrees on the delegation of Parliament. These 'materially legislative' acts are then issued by Decree of the President of the Republic. Finally, the Government is responsible for regulating all the executive activity of the law and the administrative organization.

Electoral System

Italian suffrage is direct, universal and secret. The exercise of the right to vote in Italy is defined as a civic duty by the Constitution.

The Deputies are elected on a national basis, among citizens having completed 25 years of age, by all citizens having completed 18 years of age. the Senators are elected on a regional basis, among citizens having completed 40 years of age, by all citizens having completed 25 years of age.

A proportional representation system is used in both elections resulting in a political party gaining representation from each constituency roughly in proportion to the strength of the parties there. Voters may exercise preference vote whereby they may indicate a preference for only one of the candidates nominated by the party of their choice.

Elections are held normally every five years.

Party System

The constitutional recognition of the role of social formations, expressing the pluralist nature of society, allows for the active participation of citizens in the direction of public life. Furthermore, Art. 49 of the Constitution provides that "all citizens have the right to freely form parties to contribute by democratic means to national policy". Hence the free and autonomous internal nature of the party organization and the prohibition on any public interference in the life of the political party must be reconciled with the always more frequent and complex institutional relationship which derives from the constitutional responsibility given to parties for important public functions.

The political parties presently in existence in Italy are: the Christian Democrats (DC), the Leftist Party (PdS), the Communist Refoundation (RC), the Socialist Party (PSI), the Republican Party (PRI), the democratic Socialist Party (PSD), the Liberal Party (PLI) the Radical Party (PR), The Social Movement (MSI), Proletarian Democracy (DP), the Northern League, the Sudtiroler Volkspartei, the Union Valdotaïne, the Liga Veneta, the Sardinian Action Party.

JAMAICA

Introduction

Jamaica, sparsely inhabited by Arawak Indians was claimed by Columbus who discovered America to be a part of Spanish colony. Since 1510, Jamaica remained a Spanish colony till the island was easily seized by Englishmen in 1655. Sugar and coffee cultivation formed the basis for the plantation society's economy. The British colony imported African slaves to meet labour requirements. Abolition of slave trade and emancipation of the slaves in the early 19th century ruined the plantation economy leading to social upheavals. A crown colony government was established in 1866 passing in the legacy of parliamentary system in their body politic.

Cabinet system was introduced in Jamaica in 1953 as a culmination of growing political awareness and the growth of democratic institutions. Jamaica joined the West Indies Federation in 1958 which has Trinidad, Barbados, the Leeward Islands and the Windward Islands as its members. Full internal self Government provided in 1959 led to the political development of Jamaica seceding in 1961 following a referendum. Complete independence within Commonwealth was achieved in 1962. The Jamaican Constitution came into force at the independence of Jamaica.

Government and Political System

The Head of State, the British monarch is represented by a Governor-General in Jamaica. The Governor-General is appointed

on the recommendation of the Prime Minister who commands the support of the majority in the House of Representatives. The Governor-General takes the advice of the Cabinet in all matters as the Executive power is with the Cabinet which is responsible to Parliament. The Governor-General is assisted by a 6-member privy council in exercising Royal prerogative of Mercy. The privy council includes persons who have held public office and the members are appointed by the Governor-General after consultation with the Prime Minister.

Jamaican Labour Party and people's National Party are the two main parties that have occupied the treasury benches in a see-saw battle of power sharing. JLP which support free enterprise in a mixed economy and PNP-a party with socialist principles are in the political arena of Jamaica ever since the first elections held in 1944. The Communists' Workers' Party of Jamaica (WPJ) born out of the workers Liberation League was closely working with PNP in the late eighties. But the electoral set backs in the general elections of 1980 has forced PNP to project a centrist image of itself. Hence JLP and PNP are the two major political forces in Jamaica. Some advocating U.S. statehood for Jamaica and some standing for legalising the use of marijuana are said to be emerging as a third political force to end the apparent two-party system."

Parliamentary System

Jamaican parliament has a 21-member Senate and a 60-member House of Representatives who are elected by secret ballot in a direct election. Members of the House are elected by universal adult suffrage for a 5-year term subject to dissolution, or extension of the House. Of the 21 Senators appointed by the Governor General, 13 are appointed on the advice of the Prime Minister and 8 on the advice of the Leader of the Opposition. In the event of there being no Leader of the Opposition in the House, as it happened in 1984 when all the 60 members belonged to the ruling JLP, eight independent Senators may be appointed by the Governor-General on the advice of the Prime Minister. Legislative power is vested in the bicameral parliament and as in the British system Senate has an effective role in constitutional amendments but not on money bills.

The functioning of Parliament with a president of the Senate elected from among the Senators and a Speaker of the House elected from among the members of the House of Representatives is more similar to the functioning of the British Parliament.

Jamaica relying too heavily on the export of Bauxite, Alumina processing industries and the depleted plantation sector has a mix of industrial and agricultural workers in a predominantly christian society. Jamaica's hampered economy was put through a series of economic reform measures in the eighties. The resultant economic expansion felt from the late eighties was again severely affected by the devastating hurricane Gilbert in 1988. Privatization of some government services and lessening of restrictions on investments from across the country are some of the further measures of economic liberalization. Jamaica's tourism industry, principal foreign exchange earner and the country as a whole look for betterment dawning upon the Jamaican society which has achieved a solid democratic structural base.

JAPAN

Introduction

The land of rising Sun and the industrial giant of Asia, Japan is a century old thriving democracy and yet retains a long imperial tradition of its own. It built its economic and industrial infrastructure from the ruins of the nuclear annihilation towards the fag end of the Second World War and now stands among the first seven industrial powers of the world.

From a feudalistic to the imperialist and then to a democratic one, is the long journey of the Japanese Society through the history. The country started advancing towards a culture and civilisation of its own under the impact of the Chinese Buddhism and System of writing it adopted between Sixth-Eighth centuries A.D. Its political institutions such as the Emperor, the Court and the powerful Military warrior group. Samurai were modelled on the pattern of their chinese counterparts. Later in the second half of the 19th century, in 1868, the internal upheavals brought Meiji Imperial Dynasty to the throne. Being modern in outlook, under the impact of western democratic ideas, the Meiji Emperor gave the country its first ever Constitution in 1889. The Constitution of 1889 underwent some minor changes in 1925. It provided for the Diet and a Cabinet Government responsible to the Emperor. Political Parties were also allowed to function under the Constitution. However, in the aftermath of the devastation wrought by the Second World War, Meiji Constitution underwent major changes in 1947 converting the Monarchy into a constitutional one and the

Cabinet Government directly responsible to the people through their representatives Constitution the Diet in order to bring the system in tune with modern democratic principles.

Constitutional Set up

In the scheme of the Japanese Constitution, the Emperor is the "Symbol of the State and of the Unity of the people deriving his position from the will of the people with whom resides sovereign power". Under the post-war system the Emperor's functions are largely ceremonial. Another significant feature of the Japanese Constitution is the No-war Clause incorporated in Article which says that besides denouncing the use of war as a means of settlement of disputes, Japan would never maintain any War potential as also land naval and air force. Thirdly, the rights and duties of the citizens are comprehensively enumerated in Article 31 of the Constitution which stand guaranteed within the limits of law. In all, the Constitution contains 103 articles and is inspired by the American Constitution.

Parliamentary System

Article 41 of the Constitution describes National Diet 'as the highest organ of the State power and the sole law-making body. It is also empowered to approve the national budget and has the authority to conduct investigations in relation to the Government. The Prime Minister is appointed by a resolution of the Diet and it can have the Government dissolved by passing a resolution to that effect. It also has the power to impeach judges of the Supreme Court.

The National Diet is bicameral with two Chambers namely, the House of the Councillors and the House of Representatives - which are elective bodies. While the House of Councillors is an indirectly elected Chamber, with a strength of 252 and one half of its Members retiring every three years after completing a six year term, the House of Representatives has a four-year term and can be dissolved earlier if the Prime Minister or Members of the Chamber decide to hold election. The Membership of the House is 512 elected from 130 multiple set constituencies.

The Japanese Diet functions through 16 Standing Committees and also special investigation committees constituted from

time to time to carry out investigation in relation to the Government. The principal Standing Committees are : (i) Cabinet Committee, (ii) Local Administration Committee (iii) Judicial Committee (iv) Finance Committee (v) Foreign Affairs Committee and the Committees on Education, Social and Labour Budget, Agriculture Forest, Fisheries and so on having a Membership between 45-50 drawn from both Houses. Besides, the House of Representatives has two other Committees on Science and Technology and Environment with a membership of 25 each. These Committees hold consultations with other Committees, hold a joint examination when called for and also conduct public hearing on budget, revenue bills and other important bills.

Electoral and Party Systems

The Conduct of Elections at various levels and to various representative bodies is entrusted to Election Committees at different administrative levels with a Central Election Commission to supervise and direct them. The electoral system is based on universal adult franchise and all adults who have attained the age of 20 years and who fulfil residency requirement of three years in a constituency can cast their vote. As regards candidates, the minimum eligibility for House of Representatives and other local offices is 25 years and 30 years for entry to House of Councillors and the prefectural governorship.

The 1889 Meiji Constitution, while setting up a Parliamentary System of Government also allowed political parties to function. However, the Liberal Democratic Party has dominated the political scene in Japan since 1955 when it was formed as a coalition of smaller conservative groups. It is Japan's ruling party and all Prime Ministers and all but one cabinet Ministers since then belonged to it. The offices of the Prime Minister and Party President are combined in one hand. The major opposition parties are: the Socialist Party of Japan-which significantly increased its presence in the lower House in 1990 General Elections and recorded major gains in the 1989 elections to the House of Councillors-and the J.C.P. (Japanese Communist Party) functioning since 1922. In 1955, the JCP abandoned the policy of violent revolution and decided to function within the framework of parliamentary democracy. Other minor political groups are Komeito, Democratic Socialist Party (Minshato) and Shaminren.

JORDAN

Introduction

The Hashemite Kingdom of Jordan is an independent sovereign Arab State and its system of government is parliamentary with a hereditary monarchy. Jordan's tradition of looking for an Arab solution to every Middle-East tangle stems from the national feelings of the inhabitants of the Trans-Jordan that their Prince is a descendent of Prophet Mohammed. Edomites the original settlers of the Trans-Jordan according to Biblical Traditions are the descendents of Isaac's elder son Esah and in a line stretching down to the King Herod, the great. The land was conquered by Muslim Arabs in 7th Century, ruled from Jerusalem by Christian crusaders in 12th century and was under Ottoman Empire from 1517. During World War I, Arab Nationalism went alongwith British Imperialism and there was an Arab revolt again Turkish Dominion when the Ottoman Empire was dissolved, Palestine and Trans-Jordan were placed under Beirish Administration by a League of Nations' mandate. Subsequently the Britishers decided to nominate Hashemite Princes to be rulers of Iraq and Trans-Jordan. Prince Abdullah Bin Al-Hussein was proclaimed Amir of Transjordan and Independence was thus declared on May 25, 1923. Transjordan attained full independence in 1946 when Britain terminated its mandate, and Abdullah was proclaimed King and a new constitution was approved.

The Arab conflict with Israel resulted in Palestinian influx in Transjordan and led to several political developments in Jordan

which strives for stabilisation in the Middle-East region. In recognition of Palestinians' right to self-determination, West Bank de-control was announced in June 1967. More recently in 1988, Jordan announced its abandoning the efforts to administer Israeli occupied West Bank and surrendered its claim to Palestine Liberation Organisation (PLO). Jordan's flexibility to changing circumstances is evident from these measures. It was also quite explicit in the act of promulgating the 1952 constitution responding to the great developments in the public situation after the unity of both Banks. King Hussein assumed his constitutional powers with that. Freezing of Parliamentary life, the establishment of the National Consultative Council and the return of Parliament life in sharp reaction to political situations and the revival of democratic elections would vouchsafe for the undercurrent of Parliamentary system continue to be part of that Constitutional monarchic nation.

Constitution and Government

The Jordanian Constitution declares that the State of Jordan is independent, indivisible and sovereign where there is no discrimination between Jordanians on account of race, religion or language. Jordan's official religion is Islam and its official language is Arabic while all religions are tolerated. There are about 7 administrative provinces run by Governorates. Executive power is vested in the King who governs with the assistance of an appointed council of Ministers responsible to the Assembly.

Parliamentary System

Legislative power is vested in the National Assembly and the King. The bicameral National Assembly has a 30 member Senate (House of Notables) and a 80 member Chamber of Deputies. The President of the Senate is appointed for 2 years. Those who have held public office and held high positions in government services, Armed Forces and judiciary and twice elected former members of the House of Representatives are appointed by the King as Senators for an 8 year term (one half of them retire every four years) and they must be over 40 and unrelated to the King. The Deputies are directly elected by the people on the basis of adult franchise. General elections take place during the four months preceding the end of the term of the Chamber.

The Chamber of Deputies elect its Speaker at the beginning of each ordinary session for an year and he may be re-elected. If the Chamber is dissolved, the new House shall assemble not more than 4 months after the date of dissolution. The new House cannot be dissolved for the same reason as the last. Votes of Confidence in the Council of Ministers are cast in the Chamber of Deputies. The Chamber can impeach ministers as it impeaches its own members. The King summons the National Assembly in 1st November, each year and this date can be postponed by the King and each session is opened with a speech from the throne. Decisions in the National Assembly are made by a majority vote and the quorum is two-thirds of the total number of members in each House.

The Prime Minister moves proposals before the House of Representatives. On being approved they are referred to the Senate and finally sent to the King for confirmation. The Budget is submitted to the National Assembly one month before the beginning of the financial year. If one House accepts a law while the other rejects it, a joint session decides it by a two-thirds majority. If the King withholds his approval he sends it back to a joint session. The National Assembly can override the royal veto on occasions but still the King has the power to dissolve the Houses. Jordanese parliamentary system has its own check and balance to ensure a co-ordinated functioning of the monarchy and democracy. Treaties signed by the King have to be approved by the National Assembly.

Both the Senate and Chamber of Deputies have 4 permanent Committees and they are subject-based. Ad-hoc Committees on special tasks are set up. The members of the Committees are elected by secret ballot in the Assembly. Multiple membership in Committee; is restricted to two. Chairmen of the Committees are elected by the members. Adhoc expert adviser from relevant ministry is associated with the Committee work. Committee meetings are held both in public and private and they are convened only when House sits. More than half of the number of total members should be present and vote in the proceeding of the Committee. Govt. officials may be summoned and it applied to the ministers too. Committees have the right to summon witnesses. MPs who are not members of the particular committee cannot participate in

its proceeding.

Political Parties

During the term of the first House of Representatives there were two political parties, the Arab Renaissance party and People's Party. The leader of the Renaissance party was the speaker of the first House of Representatives. Political parties like Socialist National Party, Constitutional Arab Party, Muslim Brotherhood and Liberation Party were functioning in the sixties before a ban in the national interest. In June 1991, a royal commission was set up to consider ways of legalising political parties after about 24 years. It was reported that about 40 groups were prepared to apply for recognition. A party applying for recognition needed to have a minimum of 50 founder members. They should have been Jordanian citizens at least for 10 years and should be permanent residents of Jordan. Military and security personnel, former judges and members of any non-Jordanian Political Parties were banned from founding or joining political parties. In the 1989 elections to the House of Representatives, at a time when ban on political parties yet to be lifted Muslim Brotherhood (MB), Islamic Groups Arab Nationalists and supporters of leftist political groupings won seats out numbering the traditional supporters of the Government.

KENYA

Introduction

The British East African colony of Kenya became independent, within the Commonwealth, on 12 December 1963, and a republic exactly one year later. Jomo Kenyatta, the leader of the Kenya African National Union (KANU) was appointed Prime Minister in 1963 and became the country's first President in December 1964. Kenya's two parliamentary chambers, the Senate and the House of Representatives were merged in 1966 to form a unicameral national assembly. Following the death of President Kenyatta in 1978, the Vice-President, Daniel Arap Moi, was proclaimed President and was the only candidate in the presidential election of 1979. In 1982, the National Assembly officially declared Kenya a one-party State. In 1988, Moi was nominated unopposed to serve a third term as President and was again elected in the multi-party election held in December 1992.

Constitution

Kenya's Constitution was introduced at independence on 12 December 1963, which has since been amended several times. Previous amendments to the 1963 Constitution, including the adoption of republican status on 12 December 1964, were consolidated by the Constitution of Kenya Act in 1969. The Constitution declares Kenya to be a sovereign State and has provisions regarding citizenship, freedom of the individual and basic human rights. It can be amended by the affirmative vote on Second and Third

Reading of 65 per cent of the membership of the National Assembly (excluding the Speaker and Attorney-General). Constitutional amendments can be passed in a single day provided there are separate sittings of the National Assembly. The courts are constitutionally independent of the legislature and executive.

Parliamentary set up

The unicameral National Assembly is the central legislative authority and the supreme law-making body. There are 188 elected Representatives (increased from 158 by constitutional amendments adopted in 1986), 12 members nominated by the President and two ex-officio members, the Attorney-General and the Speaker. The maximum life of the National Assembly is five years from its first meeting (except in war time). It can be dissolved by the President at any time and the National Assembly may force its own dissolution by a vote of 'no confidence', whereupon Presidential and Assembly elections have to be held within 90 days.

Executive power is vested in the hands of the President, Vice-President and the Cabinet. Both the Vice-President and the Cabinet are appointed by the President, who must be a member of the Assembly and at least 35 years of age. Election of the President is by direct popular vote. If a President dies, or a vacancy otherwise occurs during a president's period of office, the Vice-President becomes interim President for up to 90 days while a successor is elected.

Electoral and Party Systems

All Kenyans over the age of 18 are eligible to vote. Candidates for election to the National Assembly must be over 21 years old. Kenya was a *de facto* one-party state between 1969 and June 1982, when it became a *de jure* one-party State. In 1986, the sole political party in Kenya African National Union (KANU) had approved an open 'queue-voting' system which replaced the secret ballot in the preliminary stages of general election. In 1987, it was announced that only members of KANU were to be entitled to vote during the preliminary stages of a general election. In December 1991, the Constitution was amended to permit the establishment of a multi-party political system. Elections were held in December 1992 in the context of the new system. Among the significant

814 Triumph of Democracy

political parties in Kenya are the Democratic Movement of Kenya, the Democratic Party (DP), the Forum for the Restoration of Democracy (FORD), the Kenya African National Union (KANU) and the Kenya National Democratic Alliance Party.

KUWAIT

Introduction

The present day Kuwait was founded by a tribal group named Bani utub (the people who wandered)-an offshoot of the Unayzah Tribal Confederation of Central Arabia. The Al Sabah dynasty was created as an oligarchical merchant principality by the leading clan combine of the original settlers. In the 16th century, Kuwait was part of Ottoman Empire. When it was made a semi-autonomous Arab monarchy, a Sheikh of the AL SABAH family took control of it and they even now continue to rule Kuwait as an independent sovereign Arab State. In order to prevent the Ottoman Empire from extending political control over Kuwait, Mubarak—the great established in 1899 a protected-state relationship with Britain. Kuwait remained a British Protectorate till 1961 though the Turkish suzerainty over Kuwait ended in 1918 itself towards the end of World War I with the fall of the Ottoman Empire.

Constitution

Kuwait regained complete independence in 1961 from the Britishers as a mutually agreed upon arrangement. Kuwait's Constitution was inaugurated in 1962 under Amir Abdullah Al Salim Al Sabah. Amir is head of State and he is chosen by the Royal Family from among themselves. He appoints the Prime Minister and the Council of Ministers. The State is ruled by Amiri decree in the absence of a National Assembly. The first discovery of Petroleum was made in 1938 and the development of petroleum

industry is the basis of the country's modern prosperity. Most industrial enterprises are by the State and Corporations.

Kuwait has a legislature, an executive and an independent judicial system. Only literate males over 20 are eligible voters. Though the National Assembly was dissolved twice on the grounds that some opposition groups were operating in the system, no political group functions legally in Kuwait. Constitutional Alliance, supported by the Merchant Class, Democratic Forum of the left-wing Arab Nationalists, Islamic Constitutional Movement and Popular Islamic Congress of the Sunni Muslims, National Islamic Coalition of the Shia Muslims and Salafeen, a fundamentalist group, are said to exist in Kuwait. In the absence of political parties, even some known opponents of the government get elected contesting as independents.

Parliamentary System

In 1961, a 20-member Constituent Assembly was elected in the first ever election in Kuwait. The Constitution provides for a 50-member national Assembly under a limited franchise. The National Assembly has been granted the right of petition concerning Cabinet appointees. The Assembly is to be convened for at least eight months in any year during the 4-year term of its members. The bills passed by the Assembly may be sent back by Amir for reconsideration. The Bills would become law if they were subsequently passed by a two-thirds majority at the next sitting or by a simple majority at a subsequent sitting. Amir may declare Martial Law but only with the approval of the Assembly. No Confidence Motions against ministers can be passed in the Assembly as a result of which the ministers may have to resign, but such a vote against a Prime Minister is not permissible. The Assembly in such matters must approach the Amir who may either dissolve the Assembly or dismiss the Prime Minister. The Prime Minister and ministers need not be members of the National Assembly but they become ex-officio members of the Assembly for the duration of office. Amir's executive power is exercised through the Council of Ministers. Amir's decrees in establishing public institutions are conveyed to the Assembly and all the laws of the land have to be approved by the Assembly.

Parliamentary Committees

The National Assembly has 8 permanent Committees and their members are elected by simple majority. Multiple membership is restricted to 2 Committees. There are ad hoc and joint committees set up for taking up particular assignments and are dissolved on completion of the same. Absolute majority is required in Committees while moving any resolution. Parliamentary Committees of Kuwait include full time experts and researchers and they are engaged on request too. Their meetings are held in private and may be convened during recess too. The Committee Chairmen are elected by the members of each Committees. Government officials are summoned as and when necessary. Non-member MPs may participate in Committee meeting on approval by the Chairman of a Committee. Ministers may be called to provide clarifications sought by the Committees.

Kuwait has had an 'Interim' National Council comprising 50 elected and 25 appointed members established in 1990, following certain alleged destabilisation moves. Of all the Gulf States, Kuwait had remained most vulnerable to such possible disruption. After the restoration of Kuwait following Iraqi occupation in 1990, as a result of the efforts by U.N. and several other individual governments in 1991, compilation of a new electoral roll and promise for an election to the National Assembly were forthcoming.

LAOS

Introduction

Laos, the onetime powerful kingdom of Lan Xang (a land of million elephants), was inhabited by TAI people from China between sixth and thirteenth century. France colonised all of neighbouring Vietnam and Lao territories in 1885. Subsequently Siam (the present Thailand) ceded all of the remaining Lao territory in its possession of the French in 1893. Then Laos comprising 3 provincialities came under one rule as part of French INDO-CHINA. During II World War, Japan occupied Laos and ruled through Vichy French Administration till 1945. At a time when French protectorate role was reaffirmed, Nationalist elements proclaimed Lao Issara (Free Laos). The King of Laos (ruler of LUANG Prabang territory was recognised so by the French since 1904) promulgated a democratic Constitution in 1947. Laos became a free state within the French union in 1949. Nationalism in a free country took the form of pathet Lao - PL hand of the Lao) in 1950 when anti-French forces came together. Laotian political system was much influenced by this historical legacy and also by the political developments in the surrounding countries China, Cambodia, Vietnam, Thailand and Myanmar. Hence Political upheavals due to conflicting claims were mounting up in the kingdom of Laos. Lao-tians have had coalition governments prior to the establishment of People's Democratic Republic. In late 1957, a broad based coalition government was formed. The second coalition came to power in 1962 but met with war of attrition between LAO PATRIOTIC

FRONT (LPF) and ROYAL GOVERNMENT (RLG), the coalition partners. There was a third and last attempt in 1974 which was a Provisional coalition government with Royalists, neutralists and LPF. In the wake of communist victories in Vietnam and Cambodia, Pathet Lao LPF gradually and peacefully gained control of total administration in 1975.

Constitutional set up

The Constitution of 1947 was replaced by another one in 1991. It proclaims Laos to be the Lao people's Democratic Republic has a Presidential form of government. Under the terms of the new constitution, executive power is vested in the President of the State. The President is elected by the National Assembly for a 5-year term. With the approval of the National Assembly, the President appoints the Prime Minister and members of the Council of Ministers who conduct the government of the country. Provincial governors and mayors of municipalities who are responsible for local government are also appointed by the President. The Government, the administrative organ of the State is composed of the Prime Minister, Deputy Prime Ministers and Ministers or Chairmen of Committees (which are equivalent to Ministries). They are appointed for a 5 year term, co-terminus with the term of the National Assembly.

The President must promulgate the Laws adopted by the Parliament. The President is empowered to promote military personnel on the recommendation of the Prime Minister and to appoint government officials at provincial and municipal levels. The Government implements the Constitution, laws and resolutions adopted by the National Assembly and State decrees and acts of the President of State. The Prime Minister is empowered to appoint Deputy Ministers and Vice-Chairmen of Committees and lower level government officials. The provincial Governors, the Mayor and Deputy Mayors of Local Municipal Corporations are also appointed by the Chief Executive.

In terms of the Constitutional philosophy the State encourages all economic sectors and economy is market oriented with intervention by the State. Private ownership of property is protected by the State with right to inheritance. Private schools and medical services are authorised to operate and State also pro-

notes the expansion of public Education and health services.

Parliamentary system

The National Assembly is the legislative organ which also oversees administration and judiciary. The National Assembly is empowered to amend the constitution. It also endorses amends or abrogates laws. It has the power to elect or remove the President and the Vice-President. It is also empowered to elect or remove the President of the People's Supreme Court. Members of the National Assembly are elected for a 5 year term by universal adult suffrage. Lao citizens over 18 are eligible electors and those over 21 are eligible to be candidates in elections. There is an elected member to the National Assembly for every 50 thousand people in a province. Any province having one lakh citizens, has two members to represent the province.

The National Assembly elects its own Standing Committee which consists of the Chairman and Vice-Chairman of the National Assembly. The National Assembly Standing Committee may convene an extraordinary session and can propose motion to elect or remove the President of the State or Vice Presidents of the State and can recommend the election or removal of the President of the People's Supreme Court. The Standing Committee can recommend adoption of Motions, expressing No Confidence in the Government. In the recent past, State Economic Planning and Finance Committee, party and State Inspection Committees, and Committee for Economic Relations with Foreign Countries and State Commerce have had Chairmen who were in the Council of Ministers and the Committees functioned like Ministries.

Political Parties

Lao Front for National Construction-LFNC was formed in 1979 replacing the Lao Patriotic Front. It comprises representatives of various political and social groups. It fosters national solidarity and socialist economic development. It assumes a role similar to that of an Election Commission in proposing and confirming the names of candidates eligible to conduct the elections to the National Assembly.

The People's Revolutionary Party-LPRP, the dominant group in LFNC, has an 11 member Polit Bureau and 3 member advisory

Board to the Control Committee. Ethnic Liberation Organisation of Laos, United Front for the Liberation of Laos, United Front for the National Liberation of the Laos People, United Lao National Liberation Front are the principal groups in the political scene of Laos. Lao citizens have freedom of speech, press and assembly and freedom to establish associations and to participate in demonstrations which do not contravene the law.

LATVIA

Introduction

The Republic of Latvia (formerly the Latvian Soviet Socialist Republic) is situated in the north-eastern Europe. After centuries of rule by different European powers the Independent Republic of Latvia was proclaimed in 1917. Under the Treaty of Non-Aggression that was signed by Germany and the USSR in 1939 the incorporation of Latvia into the USSR was agreed by the two powers. On May 4, 1990 the Latvian Supreme Soviet declared the independence of Latvia which was ratified in the referendum by the voters in Latvia in March 1991. The USSR recognised Latvian Independence on 6 September 1991 and it was admitted to the United Nations on 17 September 1991. Latvia is inhabited by Lutherans - a set of Christinity. Its official language is Latvian.

Constitution

On 21 August 1990 Latvian Supreme Council declared Independence and adopted a new democratic Constitution.

Legislative System

Legislative power of the Government resides in the Supreme Council of Latvia known as Augustha Padone. The Council elects its own Chairman who is also President of the Country.

Electoral and Party Systems

Elections to the Supreme Council were held by popular

vote in March-April 1990.

LTF (Latvijas Tautas Fronta) is the ruling party of the country. The other major political parties are LNNK (Latvian National Independence Movement), LLP (Latvian Liberal Party), ZP (Zalo Partijac), LSDSP (Latvian Socialist Democratic Workers' Party), DDP (Democratic Labour Party), and LCP (Latvian Communist Party).

LEBANON

Introduction

Lebanon is a sterling example that multi-ethnic, multi-religious nation can survive even with an unwritten National Covenant if there is amity and could prove otherwise if it is missing. Distribution of institutional power reflecting its religious composition is the agenda before Lebanon every since its independence took effect in 1944. It had a rapid economic progress as a financial and trading centre between 1964 and 1970.

Lebanon was the seat of ancient phoenecian empire and later a part of the Hellenistic world and was under Roman rule in 1st century A.D. It was christianised by 4th century and Islami-cised after the Arab conquest in 635 A.D. Druze hereby of Islam spread in Lebanon during 11th centjury and had a sizeable adherents who became a closely knit community. When Lebanon came under Ottoman Turks a christian entrepreneurial class maintained close contacts with Europe, as a result of which Lebanon became a French protectorate in 1860. When the area was mandated to France after the First World War, Lebanon was encompassed in Syria. The nationalist aspirations of the Christian groups in the area was recognised with the creation of the modern state of Lebanon. In 1926 Lebanon established a semi-autonomous Republic with a French drafted constitution. During IInd World War, Lebanon leaders declared independence and it was subsequently endorsed by Free French authorities in 1943. Lebanon's

States of boycotting Israel resulted in the influx of Palestinians from 1948 to 1968. Emergence of several militant groups including pro-Syrian Amal militia and Iran-backed Hezbollah militia etc. contributed to the complexity of internecine conflicts. All these would explain why Lebanon is characterised by great religious and cultural diversity. This also explains the repeated extensions given to the National Assembly elected in 1972 to continue till 1994.

According to the 1943 National Covenant, Lebanon's President must be from Maronite Christians the Prime Minister from Sunni Muslims, Speaker of the National Assembly from Shia Muslims and Chief of Armed Forces from the Druzes. But the Christian-Muslim divide was over laid in 1985, resulting in a Constitutional change in 1990 establishing the Second Republic to implement Taif Accord of 1989 with a new government of National Reconciliation. From 1991 following the dissolution of all Military groups and pushing back the PLO, Lebanon is now in control of itself.

Political System

The executive power has been effectively transferred from the Presidency to the Cabinet with the incorporation of the Taif Agreement into the Lebanon Constitution of 1926. The Ministers and the Prime Minister are chosen by the President of the Republic in consultation with the members and President (Speaker) of the National Assembly. The Cabinet are not necessarily members of the National Assembly and the choice must reflect the level of representation of the Communities in the Assembly. The members of the National Assembly elect the President of the Republic for a non-consecutive 6 year term. An executive collegium between the President, Prime Minister and the Speaker has been envisaged now. The right to recall the Prime Minister has been removed from the President but he is empowered to dissolve the National Assembly and vote in the Council of Ministers. All presidential decisions require the co-signature of the Prime Minister who is head of the Government. In the National Assembly seats are divided equally between the Christians and Muslims. The distribution of seats among religious groups is determined by law. Contestants to become members of the Assembly must be literates and over 25

years of age with civil and political rights. Once elected they are considered representatives of the whole nation and are not bound to follow directions from the Constituencies. Hence the diversity of allegiance in the Assembly makes impossible an analysis by party groupings. Al-kata'eb, Ad-Dustur, Al-Baath, Bloc National, Party Socialiste Progressite, Christian Social Democratic Party, Parliamentary Democratic Front, are the major parties in the Lebanese body polity.

Parliamentary System

Lebanon has a unicameral legislature - a 108 member National Assembly and its members are elected by universal suffrage. All citizens aged over 21 are eligible electors. The Assembly members enjoy a 4-year term unless the Assembly is extended or dissolved early under special provisions. The Assembly elect its President (Speaker) and Vice-president. The President of the Assembly is a Shia as per the constitutional practice and he is consulted by the President of the Republic in the appointment of Ministers and Prime Minister.

Every year the National Assembly is scheduled to have two sessions commencing from the First Tuesday after 15 March to the end of May and from the First Tuesday after 15 October to the end of the December. Under normal circumstances general elections will take place within 60 days before the end of the 4 year term of the Assembly to elect new members. Voting is public in the Assembly. On Constitutional issues it requires to have two-thirds attendance and majority vote of the members so present and voting. Voting in the Assembly can also be secret and will require two-thirds majority either when the Assembly elects or deposes a President and also when Secretaries to the National Assembly are to be elected.

Majlis Alnwab, the National Assembly of Lebanon enacts laws and the President is responsible for their promulgation and execution. Lebanese Parliament has 13 permanent and Special Committees which are subject-based. The Committee members are elected by Assembly and their membership is limited to one Committee. Chairmen are elected by each Committee which corresponds with ministerial departments, associates experts advisers

and summons officials and witnesses. Committee meetings are held in camera and a quorum of half the number of total membership is required to conduct business and to vote. Summoning of Ministers would require a special vote of the Assembly and other members can participate if approved by Committee Chairmen.

LIBERIA

Introduction

The West African country of Liberia became an independent republic in 1847. Liberia's reputation as a stable democracy was shaken in 1980 when President William R. Tolbert was assassinated in a military coup led by Master Sergeant (later Commander-in-Chief) Samuel Doe, who assumed power as Chairman of the newly established People's Redemption Council (PRC), suspending the Constitution in force since 1847. Doe was killed in September 1990 while fighting against the forces opposed to his regime. On 22 November 1990, following a period of civil conflict, an interim President took office, and formed an interim government of national unity, which represented the principal political parties and the Liberian Council of Churches. The executive power of the Government was vested in the interim President and the legislative power in the 28-member interim National Assembly, pending presidential and general elections.

Constitution

A new Constitution, approved by referendum in 1984 came into effect in January 1986, and was amended in July 1988. The Constitution preserves the basic principles of separate and coordinate branches, checks and balances, independent judiciary and delegated local authority contained in the 1947 Constitution. It assigns specific powers to the executive and legislative branches and contemplates competitive elections supervised by an inde-

pendent electoral commission. The new Constitution includes a chapter on fundamental rights and provides that all constitutional changes must have the concurrence of two-thirds of the membership of both House of the legislature, followed by ratification by two-thirds of the registered voters in a referendum that may not be held sooner than one year after action by the legislature.

Parliamentary set up

The Constitution provides for the division of the government into three independent branches : the executive, the legislature and the judiciary. Legislative power is vested in the bicameral National Assembly, comprising the 26- member Senate and the 64 member House of Representatives. Members of both Houses are directly elected by popular vote. The new Constitution provides that the senators would be elected for a nine-year terms and representatives for six-year terms. The Constitution among others, empowers the legislature to create political subdivisions and readjust country boundaries, declare war and levy taxes and duties. Revenue bills would originate in the lower House, and no loans would be raised by the government except under legislative authority. A two-thirds vote of each House would be sufficient to override a presidential veto on bills and resolutions.

The executive power of the republic vested in the President, who is the Head of the State, Head of Government and Commander-in-Chief of the Liberian armed forces, and who must be elected by universal adult suffrage for a six-year term which may be renewed more than once. With the consent of the Senate, the President appoints his own Cabinet Ministers and their deputies and assistants, judges of the Supreme Court, subordinate judges and other officials. The President has the authority to declare, in consultation with the presiding officers of the two houses of the legislature, state of emergency when there is a threat of outbreak of war or civil unrest. However, he cannot suspend the Constitution.

Electoral and Party systems

According to the Constitution, the members of both the Houses of the Legislature are directly elected by the people. An Election Commission is there to register political parties, super-

vice financing of campaigns, declare official results, and investigate complaints. All Liberians above the age of 18, are allowed to vote without qualification.

The Constitution of 1986 provides for a multi-party system of government, and incorporates powers to prevent the declaration of a one-party state. The ban on political parties had been repealed in 1984 and by early 1985 there were 11 political parties in Liberia. Among the major political parties in Liberia today are the Independent National Patriotic Front of Liberia (INPFL), the Liberian Action party (LAP), the Liberian People's Party (LPP), the Liberia Unification Party (LUP), the National Democratic Party of Liberia (NDPL) and the United Liberation Movement of Liberia for Democracy (ULIMO).

LIBYA

Introduction

The Great Socialist People's Libyan Arab Jamahiriya is situated in North Africa. It is bounded by six African countries : Tunisia and Algeria on the West, Niger and Chad on the South, Sudan and Egypt on the East, and the Mediterranean sea on the North, with a coast of about 2000 kms. The great Jamahiriya covers an area of about 2 million square kilometres and is the fourth largest African country.

The history of Libya is closely related to the history of mankind since the dawn of human history. Several ancient civilizations have flourished on Libyan Soil since the early days of ancient history. The Jarmanite civilisation may have been the oldest known civilization on Libyan Soil.

The Islamic conquest in the twenty-second year of the Islamic calender brought with it a sense of settlement to all the previous great invaders and the Islamic creed spread all over the country. Since then, the history of Libya has been closely related to the history of the Islamic Empire. From the Sixteenth century to the beginning of the Twentieth century, Libya was part of the Islamic Ottoman Empire.

In 1911, the Italians invaded Libyan territory. The Libyans bravely defended their homeland and were able to defeat the in-

vading forces after more than twenty years of war. After World War II, Libya was again subjected to imperialist conspiracies.

Ever since the Independence was proclaimed in Libya, in 1951, the Libyan people were waiting for the opportune time to rid themselves from this yoke and the time came on the first of September, 1969. On that day bells of freedom rang, announcing the birth of a new order—the Socialist people's Libyan Arab Jamahiriya—who would be able to expel the alien armies, and bases and the remnants of the Fascist community. Finally, the people of Libya were able to achieve the rule of masses and establish authority for the masses and by the masses.

Constitution and Government

The political system in Libya is summed up in the word Jamahiriya, which literally means the state of masses. The country is run by complete popular authority with no place for the traditional structures. Authority, wealth and the arms are all in the hands of the people. Every where there are Main People's Congresses—from every village, city and town up to the General People's Congress. The Congress decide all matters of policy and their decisions are carried out by People's Committees with the assistance and guidance of the voluntary Revolutionary Committees. Following the Great Revolution of September 1, 1969, the Libyan people took back their self-control and made the following proclamation to mark the establishment of the people's power, thus heralding the dawn, of a new age for humanity, the age of the masses :

First—the official name of Libya will henceforth be "Socialist People's Arab Jamahiriya".

Second—The Holy Quran is the code of society in the Socialist People's Libyan Arab Jamahiriya.

Third—Direct Popular authority constitutes the basis of the political system in the Socialist People's Libyan Arab Jamahiriya. Authority is for the people, and none else. The people exercise power through the People's Congress, Peoples's Committee, syndicates, unions, professionals associations, and the General People's Congress.

Fourth—Defence of the homeland is the responsibility of every citizen, male and female, and by general military training the people will be trained and armed. The method of preparing the military institutions and general military training will be regulated by law.

LITHUANIA

Introduction

The Republic of Lithuania is situated on the eastern coast of the Baltic sea, in North eastern Europe. It is bounded by Latvia to the north, by Belarus to the South East, by Poland to the South West and by the territory of the Russian Federation around Kaliningrad to the West.

In 1569, to counter the threat from the Russian State of Muscovy, Lithuania United with Poland in the Union of Lublin, constituting a Polish-Lithuanian Common Wealth. In 1795, at the third partition of Poland, Lithuania was annexed by the Russian Empire.

In 1915, after the outbreak of the First World War, Lithuania was occupied by German troops. Despite the occupation, a 'Lithuania Conference' was convened in September, 1917. The Conference demanded the establishment of an independent Lithuanian State, and elected a Lithuanian Council headed by Antanas Smetona; it proceeded to declare the independence of Lithuania on 16 February, 1918, but was forced to recognize the rest of Lithuania as one independent State. Soviet Russia recognized Lithuanian Independence in the Treaty of Moscow, signed on 12 July, 1930.

Constitutional set up

An August 1940 Lithuania became a part of USSR, and a

Soviet style Constitution was adopted. On 18 July 1989, the Lithuania Supreme Soviet adopted a declaration of Lithuanian Sovereignty, which asserted the Supremacy of Lithuania's laws over All Union legislation. A new Constitution replacing that of 1940 was adopted in 1991 which proclaims Lithuania to be a Republic.

Parliamentary System

The Parliament which was renamed the Supreme Council, restored the pre-1940 name of the country, and adopted, on 11 March, 1990, the provisional Fundamental Law of the Republic of Lithuania, which established the rights, freedoms, and duties of the country's citizens. Sovereign State power is vested in the people and is exercised by the organ of State.

The highest State authority is the Unicameral Supreme Soviet Council, which is directly elected by universal adult suffrage. The Supreme Council elects its Chairman who is Head of State, for a maximum of two consecutive five-year terms. The Supreme Council also appoint the Council of Ministers which is the highest authority of Executive Power. The Council of Ministers is responsible to the Supreme Council.

Lithuania has a multi-party system. A general election took place on 24 February and 4-10 March 1990. However the redistribution of seats following independence and the ban on the Lithuanian Communist Party resulted in a realignment of affiliation. Major parties are : Democratic Labour Party, Lithuania Social Democratic Party, Lithuanian Nationalist Party, Christian Democratic Party, Lithuanian Green Party.

LUXEMBOURG

Introduction

Luxembourg became an autonomous country within the Holy Roman Empire in 1663 and rose to eminence during Henry Seventh's regime. It became part of Habsburg empire in 1482. It was conquered by the French in 1795. In 1815, at the Congress of Vienna, it became a grand duchy within the new United Kingdom of Netherlands. On Belgium's Secession from the Netherlands in 1830, the greater part of Luxembourg was merged with Belgium. The remainder won autonomy in 1848. In 1890, the Personal Union with Netherlands ended with the accession of a member of another branch of the House of Nassau. Under 1919 Versailles Treaty, Luxembourg was declared free from all ties with Germany.

In the post war era Luxembourg joined the western alliance and became a founder member of NATO and European community.

Constitution

Luxembourg is a hereditary and constitutional monarchy. The hereditary Sovereignty is enjoyed by Nassau family. The Constitution which was adopted in 1868, underwent several revisions. Constituent Assembly in 1919 introduced some important changes and vested sovereign power in the nation and introduced the system of proportional representation. The Constitution of 1948 did away with neutral status of the country and introduced

the concepts of right to work, social security and recognition of trade unions. While the 1956 Constitution provided for temporary devolution of executive, legislative and judicial powers to international institutions by treaty.

The head of the State takes part in the legislative power, exercises executive powers and has certain judicial powers. The Constitution empowers the sovereign to organise the Government.

Government

The executive power is vested in the Grand Duke. But generally it is exercised by the council of Ministers which is led by the President of the Government (Prime Minister). It consists of a Minister of State who is the President of the Government and of at least 3 Ministers. The Grand Duke appoints the Ministers but they are responsible to the legislature.

A part from the Cabinet, there is a Council of States which deliberates on proposed laws, Bills and amendment. It gives administrative decisions and also expresses its opinion on any question referred to it by the Grand Duke or the Government. The Council of State has a strength of 21 members chosen for life by the Sovereign. The Sovereign also chooses a President among them each year. However, the decisions made by the Council can be overruled by the Chamber of Deputies.

For administration purpose, Luxembourg is divided into 12 cantons.

Parliament

Luxembourg has a single Chamber legislature known as the Chamber of Deputies. It is composed of 60 members elected for five years by universal adult suffrage on the basis of proportional representation. Some legislative functions are also entrusted to the Council of States which is an advisory body. It is also the Supreme administrative tribunal.

Electoral and Party System

Luxembourg has 4 electoral districts. An elector must be a citizen of Luxembourg and must have completed 18 years of age. Candidates contesting elections must have attained 21 years of

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ago. Voters choose from party lists of candidates in multi-members constituencies.

Some of the major political parties which won seats in 1989 elections are :-

Parti Chretien Social' (Christian Social Party), Parti Ouvrier Socialiste Luxembourgeois' (Socialist Workers' Party), Party D'emocratique (Democratic Party), Comite d' Action 1/6 (Five-Sixths Action Committee), Del Greng Alternative (Green Alternative Party etc.). Other Political organisations are :

Green List Ecological Initiative Communist Party, Nationalist Party etc.

MALWAI

Introduction

A land locked country in Southern Central Africa with Zambia to the West, Mozambique to the south and east, and Tanzania to the north, Malawi was inhabited by Bantu speaking peoples who established Maravi Confederacy in 1480. During 18th and 19th century, Swahili speaking people and Yao people established their influence in this region.

The British established their colonial authority in this region in 1891 and set up Nyasaland District Protectorate which later became British Central African Protectorate and Nyasaland in 1907.

The Malawi Congress Party (MCP) formed in 1959 led the country to independence and Nyasaland became a self-governing country on 1st February, 1963 and on 6th July, 1964 it became an independent member of the Commonwealth under the name of Malawi. It became a Republic on 6th July, 1966. Malawi became one Party State in 1966. Dr. Banda was elected President of Malawi in July, 1966 and became its life President in 1971.

Constitution

Malawi had a new Constitution when it became a republic on 6th July, 1966. Fundamental rights are guaranteed by the Constitution.

The President is both Head of the State and Head of Government. He appoints the Chief Justice, senior Civil Servants and members of Armed Forces. The President is empowered to proclaim emergency. On the death of the President, the Presidential functions are discharged by a Presidential Council comprising Secretary-General of Malawi Congress Party and two Cabinet Ministers. The President has the right to participate in Parliamentary debates. The President can refuse his assent to any Bill. But if the Bill is passed again within six months, he has either to assent to the Bill or dissolve Parliament.

Government

Malawi has Presidential form of Government. Members of the Cabinet are chosen by the President and they are responsible to him. The executive power is exercised by the President. For administrative purpose, the country is divided into three administrative regions and sub-divided into 24 districts.

Parliament

The Parliament consists of the President and the National Assembly. The legislative power is vested in unicameral National Assembly. It has 112 elective seats and unlimited number of additional members nominated by the President. The members of the National Assembly are elected directly for a five-year term. All members have to belong to Malawi Congress Party. The Speaker is appointed from among the ordinary members of the Assembly. The Assembly can amend the Constitution by a two-thirds majority on the second and third readings. The President has power to prorogue or dissolve Parliament. The number of elective seats was increased from 101 to 112 at the 1987 elections.

Political Parties/Organisations

Malawi is Single Party State. The major Political party is Malawi Congress Party (MCP). The membership of this party is compulsory for all adults. Malawi Congress Party is the sole legal Party in Malawi. Congress for the second republic and Socialist League of Malawi formed an alliance called United Front for Multi-Party Democracy in June, 1991. The following opposition groups were exiled :

- 1) Congress for the Second Republic,**
- 2) Malawi Democratic Union,**
- 3) Malawi Freedom Movement,**
- 4) Malawi Socialist Labour Party, and,**
- 5) Socialist League of Malawi.**

MALAYSIA

Introductoin

The Federation of Malaysia, situated in South East Asia, consists of 13 States. Eleven of these are in peninsular Malaysia, in the southern part of Kra peninsula (with Thailand to the north and the island of Singapore to the South) and the remaining two, Sabha and Sarawak, are on the north Coast of the island of Borneo (Kalimantan), bordering Indonesia. Sarawak also borders Brunei, a coastal enclave in the north east of the State. The official language is Bahasa Malaysia, based on Malay, but English is widely used. Chinese, Tamil and Iban are spoken by minorities. Islam is the established religion, practised by about 53% of the population, while about 19% including most of the Chinese origin, follow Buddhism. The persons of India origin are predominantly Hindus. There is also small minority of Christians among all races, and aminism is practised, particularly in Sabah and Sarawak.

Brief History

The 11 states of Malaya, under British protection, were united as the Malayan Union in April 1946 and became the federation of Malaya in February 1948. As arimed communist offensive began in 1948, and was not effectively suppressed until the mid-1950s. After 1960s, the remainder of the banned communist party of Malaya (CPM) took refuge in Southern Thailand. Meanwhile, Malaya was granted independence, within the Commonwealth, on 31 August 1957.

Malaysia was established on 16 September 1963, through the union of independent federation of Malaya (renamed the States of Malaya), the internally self-governing state of Singapore, and the former British Colonies of Sarawak and Sabah (North Borneo). Singapore left the federation in August 1965, reducing the number of Malaysia's component States from 14 to 13. The States of Malaya were designated West Malaysia in 1966 and later styled peninsular Malaysia.

Constitutional set up : The Constitution of the Federation of Malaya became effective on 31 August, 1957. As subsequently amended, it is now the constitution of Malaysia, a federation of 13 States. The Capital Kuala Lumpur is a separate federal Territory as is the island of Labuna. The integrity of the Constitution as the fundamental set of guidelines and prescriptions continued to be repeated in 1984 by nearly every segment of the population, regardless of racial or political differences.

Malaysia is headed by a Constitutional monarch, the titular sovereign of the federation, whose function is analogous to that of Britain's monarch. The head of the Government is the Prime Minister, who by convention, enjoys the support of a majority political bloc in parliament.

The highest official of the federation is the Yangdi pertuan Agong (King of the Supreme Sovereign).

Every act of government is derived from his authority, although he acts on the advice of parliament and the cabinet. The appointment of the Prime Minister lies within his discretion and he has the right to refuse to dissolve parliament even against the advice of the Prime Minister. The Yangdi-pertuan Agong is elected by the Conference of Rulers, and to qualify for election, he must be one of the nine hereditary Rulers. He holds office for five years or until his resignation or death. Election is by secret ballot on each ruler in turn, starting with the Ruler next in precedence after the late or former Yangdi-pertuan Agong. The first ruler getting not fewer than five votes is declared elected. The Deputy Supreme Head of State (The Timbalan Yang di-pertuan Agong) is elected by a similar process. The Timbalan Yang di Pertuan Agong exercise no powers in the ordinary course, but is immediately available to fill the post of Yangdi-pertuan Agong and carry out

his functions in the latter's absence or disability. In the event of the Yangdi-pertuang Agongy's death or resignation he takes over the exercise of sovereignty until the conference of Rulers has elected a successor.

Parliamentary system

Parliamentary has two Houses - the Dewan Negara (Senate) and the Dewan Rakyat (House of Representatives). The Senate has a membership of 70, comprising 30 elected and 40 appointed members. Each State legislature, acting as an electoral college elects two senators either from amongst its own members or otherwise. The remaining four Senators represent the two Federal Territories, Kuala Lumpur and the island of Labuan. The Yanadi Pertuan Agong appoints the other 40 members of the senate. Members of the Senate must be at least 30 years of age. The Senate elects its president and Deputy President from among its members. It may initiate legislation, but all proposed legislation for the granting of funds must be introduced in the first instance in the House of Representatives. All legislative measures require approval by both Houses of Parliament before being presented to the Yangdi Pertuan Agong for the Royal assent in order to become law. A bill originating in the Senate cannot receive Royal Assent until it has been approved by the House of Representatives, but the Senate has delaying powers only over a bill originating from and approval by the House of Representatives. Each Senator serves for a period of three years, but the Senate is not subject to dissolution. Parliament can, by statute, increase the number of Senators elected from each state to three. The House of Representatives consists of 180 elected members, returned from single-member constituencies on the basis of universal adult franchise. The life of the House of Representatives is limited to five years, after which a fresh election must be held. The Yanadi pertuan Agong may dissolve parliament before then if the Prime Minister do advises.

Each House appoints Committees for legislative processing.

Electoral System

Every citizen who has attained the age of 21 years who is

on the "qualifying date" (date on which the electoral rolls are prepared or revised) resident in a Constituency or, if not resident, is classified as an 'absent voter' is entitled to vote in that constituency in any election to the House of Representatives. A person is disqualified from being an elector if on the qualifying date he is declared as a person of unsound mind, is an undischarged bankrupt, is serving a sentence of imprisonment, or remains liable, pursuant to a conviction in any part of the British Commonwealth, to a sentence of death or imprisonment for a term exceeding 12 months.

Every citizen resident in the Federation is qualified to be a member of the House of Representatives if he is not less than 21 years old, and of the Senate, if at least 30 years old. A person is disqualified from being a member of either House of Parliament if he owes allegiance to any country outside the Federation, is insane, or an undischarged bankrupt, or has been convicted and sentenced to imprisonment for a term of not less than an year or to a fine of not less than \$ 2000. Persons holding an 'Office of profit' may for their part not simultaneously be members of Parliament.

Political parties

Malaysia has a multi-party system and most of the parties are affiliated with the ruling coalition, the National Front. Their relative strength is measured in terms of parliamentary representation and tends to correlate with the density of communal populations in different states.

The leading political parties functioning in Malaysian Federation are : The United Malaya National Organisation (UMNO) Founded in 146; The Malayam Chinese Associatoin (MCA) formed in 1949, Democratic Action Party (DAP) formed in mid sixties; Malagam Indian Congress (MIC) founded in 1946; and the United Conservative Party (UCP) formed in 1973 after merger of various parties that had represented Malays and indigenous groups in Sarawak. The UMNO represents the interests of conservative Malaysians while the MCA and DAP have their support base among peoples of Chinese origin and Interests of persons of Indian origin are represented by the MIC. The Islamic segment of the population is catered to by the Malaysian Front Islamic Council (MFIC).

MALI

Introduction

Situated in West Africa, Mali is named after the Malinka Empire which was the regions medieval Muslim empire till 14th century. Bambara kingdom achieved dominance over the region which lasted until the French conquered the area of present day Mali between 1881 and 1895. The region annexed by Franch became the French Sudan and it formed the part of French West Africa. It became an autonomous State within the French community on 24 November, 1958 and joined Senegal to form the Federation of Mali. Senegal seceded from the independent Federation and Mali proclaimed itself an independent republic on 22 September, 1960. With Keita as its first President. During the struggle against French dominatoin, Keita dissolved the National Assembly on 17 January 1968 and took over all powers. But his government was overthrown by an army coup on 19 November 1968. The new military regime assumed all state powers under the leadership of Moussa Traore who became President on 19 September 1969. He was deposed on 26 March 1991 in a military coup.

In January 1991, a ceasefire was signed with Tuareg insurgent in the north. A further agreement was reached at a special Conference on the North held in December, 1991.

Constitution

After the overthrow of President Moussa Traore in March

1991, the Constitution of June 1979 was suspended. A new constitution which was approved in a national referendum on 12 January 1992 upholds the Principles of national sovereignty and rule of law. It provides for the separation of the powers of the executive, the legislature and the judiciary. It guarantees the independence of the judiciary and freedom of the Press and associations.

The President of Mali is elected for five years by universal suffrage. The executive power is vested in the president. The President appoints the Prime Minister and other important public functionaries.

Government

Following the overthrow of President Moussa Traore in March 1991, a 25 member committee called CTSP was composed to oversee the transition to a civilian, multi-party system. It was composed of members of armed forces and representatives of the organisations which opposed Traore. The Prime Minister appoints a Council of Ministers.

For administrative purpose, Mali is divided into eight administrative regions and there is a district government in Bamako. The regions are further sub-divided into 46 "Cercles".

Parliament

Legislative authority is exercised by the unicameral "Assemblée nationale" which is elected for five years by universal suffrage. The strength of the 'Assemblée nationale' is 129. Of 129 members, 13 are elected to represent interests of Malians resident abroad.

Members of the National Assembly are elected by simple majority system. The casual vacancies in the Assembly are filled by by-elections. The authority responsible for validating elections is Supreme Court.

Political Parties/Organisations

The union *démocratique du peuple malien* was the sole legitimate political organisation under President Traore. With its dissolution in March 1991, the CTSP was formed to supervise the

transition to a multi-party, civilian political system. Under the provision of registration of political parties, 48 organisations were accorded official status. The following political parties were successful in the 1992 municipal and legislative elections :- Congress national d' initiative democratique (CNID), Rassemblement pour la democratic et le Progres (RDP), Union des forces democratiques (UFD), Union Soudanaise - (US-RDA), Union Pour la democratic et le development (UDD), and ADEMA - PP LSJ.

MALTA

Introduction

Maltese archipelago is located in central Mediterranean sea and consists of the islands of Malta, Gozo and Comino. Malta was successively under the rule of Phoenician, Carthaginian, Greek and Roman rule. Later it fell to the Arabs in 870 A.D. and still later conquered by Norman, Sicily, and Spain. The country was granted to the Knights of St. John who ruled it until dispersed by Napoleon in 1798. The island was subsequently blockaded by the British in 1800. Maltese people requested the protection of the British Crown on condition that their rights and privileges should be preserved. The islands were annexed to the British Crown by the treaty of Paris in 1814. On opening of Suez Canal, Malta became a major British base. During the second World War, Malta withstood heavy bombing and in recognition of the steadfastness and fortitude of the people of Malta, King George VI awarded the George Cross to the island.

Malta attained independent on 21 September, 1964 and became a republic within the Commonwealth on 13 December, 1974. On final withdrawal of the British and NATO forces in 1979, Malta declared its neutrality and non-alignment. It signed agreement with Italy and USSR guaranteeing the country's neutrality. In Jan. 1987 the Constitution was amended to include Malta's adherence to the policy of neutrality and non-alignment. It also stipulated that no foreign military base would be permitted on Maltese territory.

Constitution

The first Constitution of Malta was adopted in 1964. It was revised in 1974 to give effect to a republic constitution under which Malta became a democratic republic founded on the principles of work and respect for the fundamental rights and freedoms of the individual. The new constitution provided for the office of the President replacing that of the Governor-General. It recognises Roman Catholic as the religion of the Maltese people. The Church authorities are constitutionally bound to teach according to its principles. It declares Maltese as the national language and Maltese and English as official language. The constitution provides for independent Public Commission and an Employment Commission.

The Maltese Constitution safeguards rights of women workers. It also encourages private economic enterprise and the cooperatives. It also provides for free and compulsory primary education, social assistance and insurance.

The Constitution guarantees fundamental rights like right to life, freedom from arbitrary arrest or detention and provides protection from discrimination on the grounds of race etc.

The President is the Head of the State who is elected for a five year term by the House of Representatives. The President appoints the Prime Minister, the Chief Justice, and Judges of the Supreme Court and the Attorney-General, and other Cabinet Ministers, on the recommendation of the Prime Minister. The Cabinet is responsible to the House of Representatives.

Parliament

Legislative power is held by the House of Representatives consisting of 65 members. All the members are elected by universal adult suffrage for five years, under the system of proportional representation. The House is subject to dissolution. The Constitution was amended in 1987 to provide that a Party receiving more than 50% of the total votes cast in a general election gets majority of seats in the legislature by the allocation of extra seats to that party, if necessary. The total number of electoral divisions range between 9 and 15 as decided by Parliament from time to time.

Political Parties/Organisations

The political parties which were successful in gaining seats in 1992 parliamentary elections are : - Nationalist Party and Malta Labour Party. Other political parties are :- Alternative Demokratika, Communist Party and Malta Democratic Party.

MEXICO

Introduction

Mexico, the largest country in Central America, is an extremely diverse nation. Its complexity embraces its history, society, economy, political life, foreign relations and security concerns. Mexican history is firmly embedded in the national consciousness and is replete with political and military upheaval.

Mexico had a highly developed pre-Columbian civilisation in Latin America under Toltecs and Aztecs between 10th and 12th century. Conquered by Hernando Cortes in the 16th century, Mexico was ruled by Spain until the wars of independence of 1810-21. After the war of 1846, Mexico ceded about one-half of its territory to the U.S.A. Attempts of political and social reform by the anti-Clerical Benito Juarez led to civil war in 1857-60. Repudiation of Mexico's external debts by Juarez in 1860 led to war with Britain, the U.S.A. and France. France tried to install the Austrian Archduke Maximilian as Emperor of Mexico. But he was executed on the orders of Juarez in 1867. Order was restored during the dictatorship of Porfirio Diaz which lasted from 1876 until the Revolution of 1910. The overthrow of Diaz by Francisco Madero sparked off a guerrilla war and a revolt by peasants and called for Social change and land reforms. Madero was deposed and murdered in 1913 and more than two lakh people died in the civil war. A new Constitution promulgated in 1917 curtailed the power of the Church and introduced a number of social reforms. Since 1929, the country has been dominated by the Partido Revo-

lucionario Institucional (PRI) in an effective one Party system and it has maintained a democratic form of election.

Constitution

The Present Mexican Constitution was proclaimed on 5 February 1917 and has been amended from time to time. Its provisions regarding religion, education and the ownership of mineral wealth reflect the revolutionary struggle against Roman Catholic Church and land owners.

The executive power is held by the President. He is directly elected for six years at the same time as Senate, The President is empowered to suspend constitutional guarantees in case of foreign invasion or any emergency with the approval of the Congress and Council of Ministers. He governs with the assistance of the Cabinet. He is empowered to appoint and remove members of the Cabinet, the Attorney-General and the Governor of Federal district.

Government

Mexico is a federal republic comprising 31 States and a federal District. Each State has its own constitution and is administered by a Governor. Federal authority is vested in the President who directs activities of numerous agencies and State-owned business enterprises. Federal District is governed by a regent appointed by President. Local Governments are headed by elected Municipal Presidents.

Parliament

Under 1917 Constitution, legislative power is vested in the bicameral National Congress elected by universal adult suffrage. The Senate has 64 members (two from each State and federal district) who serve a six-year term. The Chamber of deputies, directly elected for three years has 500 seats. Of these 300 are filled from single-member constituencies. The remaining 200 seats, allocated so as to achieve proportional representation, are filled from Parties' list of candidates.

The Congress is empowered to pass laws and regulations, impose taxes declare war, approve or reject budget, treaties and ratify diplomatic appointments.

The Permanent Committee of the Congress has power to convene extra ordinary sessions. The Permanent Committee consists of 29 members of the Congress (15 of them are deputies and 14 senators) and officiates when Congress is in recess.

Regular Sessions of the Congress begin on 1 September and continue till 31 December. The Congress has power to regulate organisation of armed forces and establish and maintain schools and specify the bases on which the executive may negotiate loans.

Electoral System & Political Parties

In Mexico, elections are held by majority vote at regular intervals. There is extensive participation by interest groups and labour unions in government and PRI affairs. The Major political party is Institutional Revolutionary Party (PRI) which has peasant groups and Labour unions within its ranks. Many opposition parties have had limited electoral success. Largest among them is Conservative Party of National Action (PAN). Some of the other political organisations are : Action Comunitaria, Movimiento Socialismo, Partido Democratic Mexicano etc.

MOLDOVA

Introduction

The Republic of Moldova (formerly the Moldovan Soviet Socialist Republic, a Constituent Union Republic of the (USSR), is situated in South Eastern Europe. The Republic is bounded to the north, east and South by Ukraine and to the West by Romania.

Moldovan was for much of its history, under Hungarian and Lithuanian suzerainty. During the 16th century, however, Eastern Moldovan (or Bessarabia - the Turkish Control and in 1812 it was annexed by Russia. In March 1918, after the collapse of the Russian Empire. Bessarabia became part of Romania, but the USSR refused to recognise Romania's claims to the territory, and on 12 October 1924, formed a Moldovan Autonomous Soviet Socialist Republic (ASSR) on the eastern side of the Dniestr. in an area largely populated by Ukrainians.

The policy of glasnost, introduced by the Soviet leader, Gorbachev, in 1986, allowed the expression of opposition to this process of 'ressification'. As a result on 27 August 1991, the Moldavian parliament and a Grand National Assembly proclaimed Moldovan independence from the USSR. The independence proclamation Committee Moldovan adhere to international agreements on human rights, declared the exclusive validity of Moldovan Legislation in the Republic and demanded the withdrawal of Soviet troops from Moldovan territory. When a Commonwealth of Independent States was proposed in December 1991, Moldova

expressed its willingness to participate on the condition that the Commonwealth did not impinge on Moldovan independence. Support for independence was further demonstrated when elections were held on 8th December. Mircea Snigur was the only candidate. On 21 December 1991 Moldova agreed to membership of the Commonwealth of Independent States, by the Alma Ata Declaration of the 11 Republics of the former USSR. Thus, following the formation of the Commonwealth of Independent States and the effective dissolution of the USSR, Moldova was one of the first Republics to be recognised by the international Community.

Parliamentary System : The Moldova parliament comprises 366 Deputies. Elections were held in February 1990 to the Supreme Soviet (renamed the Moldovan Parliament in May 1991), with the Communist party as the only officially recognised party.

Party System : In August 1991 the Moldovan Parliament voted to ban the Communist party of Moldova. In 1991 several small political groups which represented ethnic minorities, but supported Moldovan independence, were established. They included Democratic Moldova, a movement of ethnic Russians in support of independence, the Society for Ukrainian Culture and the Jewish Cultural Society.

MONACO

Introduction

The tiny coastal principality of Monaco is an enclave of South-Eastern France. Monaco took its name from Ligurian 'Monoikos' tribe of the 6th century B.C. Monaco has been ruled by Grimaldi dynasty since 1297 but its rule was abolished during the French Revolution. In 1731, the country passed into the female line. But the Grimaldi dynasty re-established itself in 1814. In 1861 Monaco became an independent State under the protection of France. Prince Albert Promulgated a Constitution in 1911. There were agreements between France and Monaco in 1918 and 1919. These agreements provided for Monaco's incorporation into France if the reigning Prince died without leaving a male heir. Prince Louis II, the ruler of Monaco since 1922, died in May 1949 and was succeeded by his grandson Prince Rainier III.

Constitution

The first Constitution of Monaco which was adopted on 7th January, 1911 was modified in November 1917. It provided for a National Council elected by a panel of 30 members composed of delegates of the municipality and 21 electors appointed by universal suffrage. The legislative power was exercised by the Prince and National Council which consisted of 18 members elected for a term of 5 years. The executive government was exercised, under the authority of the Sovereign, by the Minister of State who was assisted by the three members of the Council of Governments.

On 17 December, 1962, a new Constitution was promulgated by Prince Rainier. The future amendments to the Constitution can be made only with the approval of the elected National Council. Among other features of the Constitution is the observation of hereditary monarchy. The Principle of divine right is denounced. It guarantees the right of association, trade union freedom and the right to strike. The Supreme tribunal safeguards fundamental liberties. The new Constitution extends the franchise to women and abolishes the death penalty.

Executive power is vested in Prince and exercised jointly with the four members Council of Government, headed by a Minister of State. The Prince represents the Principality in its relations with foreign powers and signs and ratifies treaties.

For administrative purpose, Monaco is divided into four districts.

Parliament

Legislative power in Monaco is jointly held by the Prince and the unicemeral National Council. The National Council has 18 members. All the members are elected by universal adult suffrage for five years.

Electoral and Party System

The electorate in Monaco comprises only Monegasque citizens aged 21 years or over.

Though there are no political parties as such in Monaco, electoral candidates have been grouped under the following organisations :-

- 1) Union Nationale et Democratique (UND) is a major political group. During 1988 elections it won all the seats of the National Council. Movement D'union Democratique is an opposition party.

Other political organisations are : Movement d' Union Democratique, Action Communale (AC) and the Evolution Communale (EC).

MONGOLIA

Introduction

Mongolia is a land Locked country in Central Asia, with Russia to the north and the People's Republic of China to the South, east and west.

Outer Mongolia was a Chinese province from 1691 to 1911, an autonomous State under Russian protection from 1912 to 1919 and again a Chinese province from 1919 to 1921. On 13 March 1921 a provincial People's Government was established which declared the independence of Mongolia on 5 November 1921 Mongolia signed a treaty with Soviet Russia annulling all previous unequal treaties and establishing friendly relations. On 26 November 1924, and Government proclaimed the country the Mongolian People's Republic.

Constitutional set up

The Constitution was adopted on 13 January 1992 and came into force on 12 February of that year. It proclaims Mongolia with its capital at Ullan Bator, to be an independent Sovereign republic while ensuring for its People democracy, justice, freedom, equality and National unity.

The President is the Head of State and Commander-in-Chief of the Armed forces. He must be an indigenous citizen, at least 45 years old who has resided continuously in Mongolia for the last five years before election. He is term of office is 4 years.

The Cabinet is the highest executive body and drafts economic, social and financial policy, takes environmental protection measures, strengthens defence and security, protects human rights and implements foreign policy for a four-year term.

Parliament System

The legislative power is vested in the Mongolian Great Hural (Assembly), a single chamber with 76 members elected by Universal adult suffrage for a four year term, with a Chairman and Vice-Chairman elected from amongst the members. The Great Hural recognises the President on his election and appoints the Prime Minister and members of the Cabinet. A Presidential Veto of a decision of the Great Hural can be overruled by a two-thirds majority of the Hural. Sessions are held once every six months for not less than 75 working days. Decisions are taken by a simple majority. There are two types of communities : Permanent, ad hoc. There are 14 permanent Committees which are elected for a year.

Electoral and Party System

All citizens, aged 18, and above are entitled to vote, with the exception of the insane and persons serving a sentence pursuant to a court decree. Persons meeting the same requirements as voters may be elected to Parliament. Cabinet members may not concurrently serve as Deputies.

By elections are held to fill Parliamentary vacancies which arise between general elections.

All officially registered Political Parties, organizations or Communities of Working People, trade Unions, youth organisations and agricultural co-operatives are entitled to put forward candidates to Parliament. Under the electoral law, each must have the backing of 150 persons in cities and 50 persons in rural areas.

Some of the major parties are : Mongolian People's Revolutionary Party (MPRP); Mongolian Democratic Party (MDP); Mongolian Youth Organization; Mongolian National Progressive Party (NPP); Mongolian Social Democratic Party (SDP); etc.

MOROCCO

The Kingdom of Morocco, situated in the extreme north-west of Africa, became independent in 1956 under King Mohammed V of the Alaouite dynasty after 44 years of French Protectorate. After Mohammad's death in 1961, his son ascended to the throne as King Hassan II and for more than three decades, had juggled a complex and daunting variety of economic, military and diplomatic problems.

Constitution

Morocco has had three Constitutions since the attainment of independence in 1956. Each of the Constitutions was prepared by constitutional advisers appointed by, and acting under, the direction of the King. The last one was approved by a national referendum in March 1972. The Constitution provides that Morocco shall be a Constitutional, democratic and social monarchy. Sovereignty shall pertain to the nation and be exercised directly by means of referendum and indirectly by the constitutional institutions. All Moroccans shall be equal before the law and all adults shall enjoy equal political rights including the franchise. Freedom of movement, opinion and speech and the right of assembly shall be guaranteed. The Judiciary shall be appointed on the recommendation of the Supreme Council of the Judiciary Presided over by the King. Islam shall be the State religion.

Parliamentary Set up

The 1972 Constitution provides for a modified constitu-

tional monarchy with an hereditary King as Head of the State. Legislative Power is vested in the unicameral Chamber of Representatives, having 306 members who are elected for six years, two-thirds of them by direct suffrage. The remaining 102 deputies are elected by electoral colleges which represent provincial assemblies and various professional bodies. The Chamber is empowered to pass legislation, which may be initiated by its members or by the Prime Minister, authorise any declaration of war and approve any extension beyond 30 days of state of emergency.

the King is the symbol of unity, guarantees the continuity of the State and safeguards respect for Islam and the Constitution. The King has the power to appoint and dismiss the Prime Minister and Cabinet Ministers and also presides over the Cabinet. The King promulgates legislation passed by the Chamber of Representatives and has the power to dissolve the Chamber, declare a state of emergency and to initiate revisions to the Constitution. The Government is responsible to the King and the Chamber of Representatives. The Prime Minister has the power to initiate legislation and exercise statutory powers except where these are reserved to the King. The Chamber in turn is given power to defeat the government either by refusing a vote of confidence moved by the Prime Minister or by passing a censure motion which lead to the collective resignation of the Government.

Electoral and Party System

The national electoral process is a complex matter involving several stages resulting in a legislative body that in addition to 204 directly elected members includes 60 representatives elected by provincial and prefectural assemblies and 42 elected by four bodies representing professional and wage-earning groups. Holding of local the essential preliminary step as these Councillors elect from among themselves members of the provincial and prefectural assemblies. These assemblies in turn design 60 of their members to sit in the future Parliament. Elections are held for representatives to four bodies - the Chamber of Commerce & Industry, the Chamber of Agriculture, the Chamber of Crafts and one for salaried employees. These bodies later elect representatives from among their memberships.

There are many political parties in Morocco ostensibly rep-

representing various interests but essentially conservative and royalists. These parties have ensured the King ample majorities for whatever initiatives he proposes. The King chooses freely among the parties in forming his governments. Among the major political parties in Morocco are the Istiqlal, the Mouvement Populaire (MP), Parti National Democratique (PND), Parti du Progress et du Socialisme (PPS), Rassemblement National des Independants (RNI) Union Constitutionnelle (UC) and Union Nationale des Forces Populaires (UNEP).

MOZAMBIQUE

Introduction

The Republic of Mozambique lies on the east coast of Africa. Mozambique was colonised by Portuguese in the 16th-17th century. In the 19th century the Portuguese established their control over the entire territory of Mozambique. Nationalists hopes for a peaceful transition to independence were dashed by the ruthless repression of the Portuguese colonialists. Frelimo (Mozambique Liberation Front) which was established in exile in 1962 launched a guerilla war of independence on 25 September, 1964 and impelled the Portuguese to sign an independence agreement which led to independence of Mozambique under Frelimo rule on 25 June, 1975. Samora Michel, leader of Frelimo became the first President of Mozambique. He died in a plane crash in 1986 and was succeeded by Joaquim Chissano, who has been since supervising the country's moves towards normalcy by initiating negotiations with Renamo, the opposition guerilla group. The last elections to Assembly of the Republic and other subordinate assemblies were held in 1986. The next one are likely to be held after a general peace agreement is signed with Renamo.

Constitution

Under the 1990 Constitution, name of the country has been changed to "Republic of Mozambique" after dropping the prefix People's. The Constitution declares Mozambique to be an independent, sovereign, unitary and democratic state of social justice.

Sovereignty resides in the people. All citizens enjoy the same rights and are subject to the same duties, irrespective of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position or occupation. All citizens enjoy freedom of opinion, assembly and association. Judicial functions are exercised through the Supreme Court and other courts provided in the law on the judiciary, which also subordinates them to the Assembly of the Republic.

Parliamentary Set up

The Assembly of the Republic is the highest organ of legislative power and is directly elected by provincial assemblies for a period of five years. Other organs of power in the State are the provincial (734 deputies), district (3390 deputies), city (460 deputies) and locality (22,230 deputies) assemblies which are responsible for the organs of the State at their respective levels, and are directly elected by all Mozambicans over 18 years in age.

The Assembly is the highest legislative body and meets at least twice a year. A 15-member permanent Committee of the Assembly exercises its legislative functions when it is not sitting. Executive functions are carried out by a Council of Ministers chaired by the President. The President of Mozambique is also President of Frelimo and Commander-in-Chief of the Armed Forces. He is elected by direct universal suffrage on a majority vote. As the Head of State, he ensures that the State organs functions properly, and appoints and dismisses Ministers and several other functionaries of the government.

Electoral and Party Systems

All citizens over 18 years of age are entitled to vote and be elected. The people exercise power through universal, direct, secret and periodic suffrage to elect their representatives, by referenda and through permanent democratic participation. The 1990 Constitution allows multi-party system although the elections are yet to be held. Frelimo is no longer the sole legal political party and its linkage to other institutions like army and trade union organisations are being gradually weakened and dissolved. Other parties which have come up are PALMO, COINMO, MONAMO, UNAMO, PADELIMO etc. The country is, now moving towards "democratic socialism" and away from Marxism-Leninism.

NAMIBIA

Introduction

The Republic of Namibia, formerly known as South West Africa, lies in south-western Africa. It became a German possession in 1884. In 1920, the League of Nations entrusted South Africa with a mandate to administer South West Africa. In 1946, the UN refused South Africa's request for permission to annex South West Africa. However, South Africa tightened its grip on South West Africa which gave birth to the South West Africa People's Organisation (SWAPO) in 1958 which campaigned for full independence from South Africa. In 1988, Angola, Cuba and South Africa signed a formal treaty which provided for the implementation of the UN Resolution 435. Election was held in November 1989 for the 72-member Constituent Assembly in which SWAPO secured a clear majority. In March 1990, Namibia became an independent State and the Constituent Assembly became the National Assembly.

Constitution

In February 1990, the Constituent Assembly adopted a draft Constitution, providing for a multi-party democracy, based on universal adult suffrage, with an independent judiciary and a bill of rights. All citizens have the right to form and join political parties. According to the Constitution, Namibia is a sovereign, secular, democratic and unitary State. Constitution is the supreme law of the land. The repeal of, or amendments to, the

Constitution require the approval of two-thirds of the members of the National Assembly and two-thirds of the members of the National Council. If the proposed repeal or amendment secures a majority of the members of the National Assembly, but not a majority of two-thirds of the members of the National Council, the President may make the proposals the subject of a National referendum, in which a two-thirds majority is needed for approval of the legislation.

Parliamentary Set up

Legislative power is vested in the National Assembly which is composed of 72 members elected by general, direct and secret ballots and not more than six non-voting members appointed by the President by virtue of their special expertise, status, skill or experience. Unless otherwise dissolved by the President, the National Assembly continues for a maximum period of five years. The Constitution also provides for the establishment of regional councils, and for a national Council. It considers all bills passed by the National Assembly, investigating any subordinate legislations referred to it by the National Assembly for advice, and recommending legislation to the National Assembly on matters of regional concern.

Executive power is vested in the President and Cabinet. The President is the Head of the State and of the Government and the Commander-in-Chief of the Defence Force. President is elected for a term of five years and is permitted to hold office for a maximum of two terms.

Electoral and Party Systems

Members of the National Assembly are elected by general, direct and secret ballots. The President of Namibia also is elected by direct, universal and equal suffrage and must receive more than 50 per cent of the votes cast.

All citizens of Namibia are guaranteed the right to form and join political parties. Among the prominent parties in Namibia are the South West Africa People's Organisation of Namibia (SWAPO), the Democratic Turnhalle Alliance (DTA), the United Democratic Front and the Action Christian National.

NEPAL

Introduction

The Kingdom of Nepal is a land-locked Asian country in the Central Himalayan mountain range, with India to the east, south and west, and the People's Republic of China to the North. It is a multi-ethnic, multilingual, sovereign Hindu Kingdom. The Constitution promulgated by King Birendra Bir Bikram Shah Dev in 1990 was converted it into a Constitutional Monarchy with the vesting of real power in the elected Government headed by the Prime Minister and consisting of the King, the House of Representatives and the National Council, thus providing for a bicameral Parliament.

Since early 19th century until 1951, real authority in Nepal was wielded by the Rana family whose scion only could become the Prime Minister. As a result of popular upsurge against the domination of Ranas, they were overthrown and King Tribhuvan Bir Bikram Shah Dev, whom they conspired to depose, was reinstalled as Nepal's ruler. This was followed by the establishment of a limited Constitutional Monarchy. A Constitution was promulgated in 1959 and in the General Elections held subsequently Nepali Congress Party led by B.P. Koirala was brought to power. However, this brief spell of democracy in Nepal ended abruptly in 1960 with the royal coup of December 1960 resulting in overthrow of B.P. Koirala Government and king becoming the real centre of authority. A blanket ban on the functioning of the political parties was imposed. This situation changed somewhat after the death of

King Mahendra in 1972 and accession to the throne of his son Birendra. The Government headed by Prime Minister Nagendra Prasad Rijal though brought some changes in the Constitution conferring a degree of authority in financial matters on the Rashtriya Panchayat, still the real power continued to be vested with the King. In 1980, a Constitutional Reforms Commission was set up, and Elections in the month of December 1980 were held on a non party basis.

However, there were reservations among various sections of the public opinion regarding the working of party-less democracy and the demands were articulated for a new party-based democratic system, through demonstrations by political groups. Responding to the popular demands, King Birendra promulgated the present Constitution in 1990, dissolved partyless Rashtriya Panchayat and ordered fresh elections. Mr. K.P. Bhattarai was appointed the new Prime Minister. The General Elections held in May 1991 were in accordance with the spirit of the multi-party democracy. A new government under the leadership of Mr. Girija Prasad Koirala was formed, ushering in a new era of Parliamentary democracy in Nepal.

Constitutional System Under the provisions of the new Constitution promulgated in November 1990, Nepal is a Constitutional Monarchy. Prior to the adoption of the new Constitution, executive power was vested in the King, until April 1990, also presided over the Unicameral legislature, the Rashtriya Panchayat (National Assembly).

The new Constitution guarantees the fundamental rights to every citizen and the protection of his liberty, the Consolidation of Parliamentary government, the Constitutional monarchy and the multi-party system and the provision of an independent judicial system. Sovereignty resides in the Nepalese people. The Constitution is the fundamental law of the land.

Parliamentary System The 1990 Constitution provides for a bicameral Parliament, comprising House of Representatives and the National council. The House of Representative (Pratinidhi Sabha) consists of 205 members elected on the basis of adult franchise for a five year term. The National Council (Rashtriya Sabha) has 60 members, consisting of 10 nominees of the king, 35 members

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(including three women) elected by the electoral college, which includes the heads of the local Committees of various development regions. The tenure of the National Council is six years. The minimum eligibility age for membership of the Council is 35 years.

Electoral System

All Nepalese citizens aged 18 or above are entitled to vote if registered as electors. Electoral lists are revised before each poll. Voting is not compulsory.

Nepalese citizens at least 25 years of age who are not disqualified under any law and who do not hold an office of profit, are eligible to become members of the House of Representatives.

Representatives are elected by simple majority from 75 districts on the basis of population, each district having at least one seat. The 35 members elected by the House of Representatives are chosen pursuant to proportional Representation and the single transferable vote system. This system also applies to 15 members elected in the Five Development Regions, drawn from villages, town and district levels.

By-elections are held to fill vacancies in the House of Representatives which arise between general elections. National Council Vacancies are filled in the same manner of election or appointment in which the vacating member is chosen.

Party System After the political upheaval in early 1990, the establishment and functioning of political parties, which had been prohibited under the Panchayat system, was legalized. According to the 1990 Constitution, political parties are required to register with the Election Commission and in order to be officially recognized, 5% of the candidates presented by a party must be female and the party should obtain at least 3% of the total votes cast in the election to the House of Representatives. The Constitution also specifies that no law may be adopted that bans, or imposes restrictions on political parties. Nepal has a multi-party system and some of the major political parties are : Communist Party of Nepal (CPN); Nepali Congress Party (NCP); United Communist Party of Nepal (UCPN); United Left Front (ULF); Nepal Workers and Peasants Party; etc.

NETHERLANDS

Introduction

The Kingdom of the Netherlands is situated in Western Europe. The country is bordered by Germany and Belgium.

The Netherlands was occupied by Germany during the Second World War. Following its liberation in 1945, the country chose to abandon a traditional policy of neutrality, subsequently becoming a member of Western European Union (WEU) and NATO. The Treaty establishing the Benelux Economic Union between the Netherlands, Belgium and Luxembourg was signed in 1958 and came into force in 1960. The Netherlands is a founder member of European Community.

Constitutional set up

According to the Constitution of the Kingdom of the Netherlands, the Kingdom consists of the Netherlands, Aruba and the Netherlands Antilles. Their relations are regulated by the 'statute' for the Kingdom, which came into force on 29 December, 1954.

The first Constitution of the Netherlands after its restoration as a Sovereign state was promulgated in 1814. It was subsequently revised and amended. A new Constitution the first since 1948, came into force on 17 February 1983.

The Netherlands is a Constitutional and hereditary monarchy. The Central executive power of the State rests with the Crown,

while the Central legislative power is vested in the crown and Parliament. The Head of State has mainly formal pre-rogatives, and executive power is exercised by the Council of Ministers, led by the Prime Minister, which is responsible to the States-General. The monarch appoints the Prime Minister and, on the latter's recommendation, other Ministers. Each of the 12 provinces is administered by an appointed Governor and an elected council.

Parliamentary System

Legislative Power is held by the bicameral States-General (Parliament). The First Chamber has 75 members indirectly elected by the members of provincial States for six years (half retiring every three years). The Second Chamber has 150 members directly elected by universal adult suffrage for four years on the basis of proportional representation.

Electoral and Party Systems

All Dutch nationals who have attained the age of 18 years are entitled to take part in the election for the Second Chamber. Those not entitled to vote are certain groups of non-resident nationals, mentally - disordered and legally incompetent persons.

The Netherlands is a multi-party system. Major political parties are : Labour Party, Christian Democratic Party, People's Party for Freedom and Democracy, Democrats; Christian Democratic Appeal (CDA); Centre Democrats; Reformed Political Federation; etc.

NEW ZEALAND

Introduction

The Dominion of New Zealand lies in the South Pacific Ocean, and Southeast of Australia. It consists of North Island and South Island separated by the narrow Cook strait, and several smaller islands, including Stewart Island in the South.

New Zealand is a former British Colony. It became a dominion, under the British Crown, in 1907 and achieved full independence by the Statute of Westminster, adopted by the British Parliament in 1931 and adopted by New Zealand in 1947.

In 1962, Western Samoa, formerly administered by New Zealand, achieved independence, and in 1965 the Cook Islands attained full internal self-government but retained many links, including common citizenship, with New Zealand. In October 1974 Niue, one of New Zealand's island territories, obtained similar status 'in free association with New Zealand.' New Zealand retains two Dependent territories, Ross Dependency and Tokelau.

Constitutional Set up

New Zealand has no written Constitution. The political system is closely modelled on that of the United Kingdom. As in the latter country, Constitutional practice is an accumulation of customs, conventions and Precedents.

The Executive Power is vested in the British monarch and is

exercisable in New Zealand by the monarch's personal representative, the Government General. In the exercise of the powers and authorities vested in him, the Governor General must be guided by the advice of the Executive Council. The Executive Council consists of the Governor General and all the Ministers.

Parliamentary System

Parliament comprise the Crown and the House of Representatives.

The number of members constituting the House of Representatives is 97, each representing a single Constituency. Of the total members, 93 are drawn from general seats and four from Maori seats. They are designated 'Members of Parliament' and are elected for three years, subject to the dissolution of the House before the completion of its term.

There are 3 types of Committees in the House of Representatives: Permanent ; adhoc, and Committee of the whole. Out of them 17 are permanent.

Electoral and Party Systems

Everyone over the age of 18 years may vote in the election of members for the House of Representatives. Since August 1975, any person, regardless of nationality, ordinarily resident in New Zealand for 12 months or more and resident in an electoral district for at least one month is qualified to be registered as a voter.

There are 93 general electoral districts and four Maori electoral districts. As from 1975, any person of the Maori race, which included any decendent of such a person, may enrol on the Maori roll for that particular Maori electoral district in which that person resides. Each district returns one member to Parliament on the basis of a simple majority system.

By-elections are held to fill any Parliamentary seat falling vacant between general elections.

Political parties play a major role in the system though the candidates need not be members of a political party. Some of the major parties are ; National Party, Labour Party, New Labour Party, Green Party etc.

NICARAGUA

Introduction.

The Republic of Nicaragua lies in the Central American Isthmus bounded by the Pacific Ocean to the West and by the Caribbean Sea to the East. Its neighbours are Honduras, to the north, and Costa Rica, to the South.

Nicaragua was under Spanish rule from the 16th century until 1821. It then became part of the Central American Federation until 1838. In 1912, at the Nicaragua Government's request, US forces established bases in the country. They left in 1925 but returned in 1927, when a guerrilla group, led by Augusto Cesar Sandino, was organized to oppose US intervention. The US forces left in 1933, when their role was assumed by a newly created National Guard, commanded by General Anastasio Somoza Garcia. Sandino was assassinated in 1934, reportedly on Somoza's orders, but some of his followers (Sandinistas) remained active in opposing the new regime. Somoza became Minister of war, seized power in a coup in 1935 and took office as President in 1936. He was succeeded in 1947 by one of his own nominees but quickly overthrew him and installed an uncle of his as President. When the latter died in 1950, Gen. Somoza resumed the Presidency and remained in Power until his assassination by a Sandinista in September, 1956. The Somoza family continued to dominate Nicaraguan politics until 1979, with one of them ruling either directly as President or a Command of the National Guard.

Constitutional set up

After taking the office on 20 July, 1979, the Government of National Reconstruction abrogated the 1974 Constitution. On 22 August, 1979 the revolutionary junta issued a "Statute on Rights and Guarantees for the Citizens of Nicaragua", providing for the basic freedoms of the individual, religious freedom and freedom of the Press, and abolishing death penalty. The intention of the Statute was formally to re-establish rights which had been violated under the deposed Somoza regime. A fundamental Statute took effect from 20 July, 1980, and remained in force until the Council of State drafted a political Constitution and proposed an electoral law. A new Constitution was approved by the National Constituent Assembly on 19 November, 1986, and promulgated on 9 January, 1987.

The executive power is exercised by the President of the Republic who is the Head of State, Head of Government and Commander-in-Chief of the Defence and Security forces of the Nation. The election of the President and Vice-President is by equal, direct and free universal suffrage through secret ballot. The President serves for a period of six years.

Parliamentary System

The National Assembly exercises Legislative power through representative popular mandate. The National Assembly is composed of 92 representatives elected by direct secret vote in regional districts, by means of a system of proportional representation. The number of representatives may be increased in accordance with the general census of the population. Representatives are elected for a period of six years. The functions of the National Assembly are to draft and approve laws and decrees.

Electoral and Party Systems

All Nicaraguans who have reached 16 years of age have the right to vote. There is absolute equality between men and women.

Some of the important parties are SLN, FDN, UNO etc.

NIGER

Introduction

The West African Republic of Niger was formerly a part of French West Africa. It became a self-governing member of the French Community in December, 1958 and was granted independence on 3 August, 1960. The army seized power in a coup in 1974 and Lt. Col. (later Maj. Gen.) Seyni Kountche, the Chief of Staff of the Armed Forces became President. On his death in 1987, Col. (later Brig.) Ali Saibou, the Army Chief of Staff became the Head of State of Niger.

Constitution

In 1989, a new Constitution was endorsed in a referendum. It was, however, suspended by the National Conference on 9 August, 1991. An interim legislative body, the *Haut conseil de la Republique* was subsequently delegated to draft a new document, which was expected to provide for the establishment of a multi-party, civilian political system in 1993. Because of severe unrest and pressure from forces asking for democratic reforms in 1990, President Saibou consoled to the demand for the establishment of a multi-party system and the convening of a National Conference on political reform. The National Conference representign the organs of the state and various political organizations ww as convened in July, 1991.

Parliamentary Set up

Declaring itself sovereign, the National Conference on 9 August, 1991 dissolved the existing 93 member legislature which had been elected from a single list of candidates in December, 1989. Powers exercised by President were drastically curtailed and a transitional administration headed by Amadou Cheiffou was appointed to look after the administration till the restoration of elected democratic institution expected to be organised in 1993. A 15 member interim legislative body, the *Haut conseil de la République* was appointed by the National Conference to ensure the transitional Government's implementation of the resolutions adopted by the National Conference, to supervise the activities of the Head of the State and to oversee the drafting of a new Constitution.

Electoral and Party System

The September 1989 Constitution had confirmed the *Movement national pour une société de développement* (MNSD) formed by President Saibou as the sole party of Niger. In November, 1990, however, it was announced that Niger was to adopt a multi-party system. Provision was made for political parties to register their statutes with the Ministry of the Interior. By early 1992, some 37 political parties had been registered including the MNSD, the *Union nigérienne démocratique-Sawaba*, the *Union des partitotes démocrates le progressiste nigérien* - *Rassemblement démocratique africain* (PPN-RDA).

NORWAY

Introduction

The Kingdom of Norway forms the Western Part of Scandinavia in northern Europe. It is bordered to the east by Sweden and with in the Arctic Circle, by Finland and Russia. Norway exercises sovereignty over the Svalbard archipelago, Jan Mayen island and the uninhabited island dependencies of Bowet and Peter I island. Queen Maud Land, in Antarctica, is also a Norwegian dependency.

For almost 400 years, until 1814, Norway was under Danish rule. As a result of the war against Napoleon, in which Denmark was allied with the losing side, the Danish King was obliged to relinquish Norway to Sweden as part of the spoils of war. The Union with Sweden lasted for 91 years, during which the Norwegian People's desire for complete independence grew steadily and became more pronounced. After protracted and often difficult negotiations with Sweden, the Union was dissolved to the satisfaction of both parts in 1905 and Norway declared its independence. A referendum was then held, which resulted in the election of the Danish Prince Carl who took the name Haakon VII, as King of Norway. Upon King Haakon's death in 1957, his only son acceded to the throne as King Olav V. and upon his death in 1991, he was succeeded by his son, King Harald V, who is now Norway's reigning Monarch. The King, although the Head of State, has mainly symbolic power.

Constitutional Set-Up

The Constitution was promulgated on 17 May, 1814. According to the Constitution, Norway is a "free independent, indivisible, inalienable Kingdom; its form of government a limited and hereditary monarchy.

Executive power is vested in the Prince, Minister and the cabinet, legislative power in the *Storting* (Parliament), and judicial power in the Judicature.

Parliamentary System

The Prince Minister cabinet Minister exercises its power through the *Statsrad* (State Council). The State Council is composed of the Prime Minister and not fewer than seven other (Councillors of State), all at least 30 years of age. The business to be dealt with in State Council is prepared by the various executive Ministries, each with a cabinet minister at its head. These executive departments conduct the administrative work of the country.

The *Storting* (Parliament), inaugurated in 1866, occupies a prominent position in the Centre of Oslo. At present the *Storting* has 165 members, who are chosen at a general election every fourth year in September. Of the 165 current representatives, 59 are women.

The *Storting* is in reality, based on a unicameral system, as all its members are elected at one and the same election. However, Norway has a distinctive system for the enactment of legislation. A type of bicameral system has been established for this purpose. Three quarters (124) of the representatives are members of the *Odelsting* and one-quarter (21) of the *Lagting*. Legislative bills are dealt with first in the *obels*, and subsequently in the *Lagting*. If full consensus cannot be attained after a bill has been debated twice in each of these dimensions, the *Lagting* must send the bill to the *Storting* in plenary session. There, the bill must be supported by a two-thirds majority in order to be adopted, after which it is submitted to the King in Council for official sanction.

The bulk of the *Storting's* work is carried out in the 12 standing Committees, which discuss the governments proposals and submit recommendations in each case for further considera-

tion in plenary sessions. The members of the Standing Committees are elected for a four year period. Each Committee is composed of members of Parliament representing the different political parties, reflecting as closely as possible the proportional composition of the *Storting*. All *storting* representatives are members of Standing Committees.

Electoral and Party System

All Norwegian citizens are entitled to vote in general election from the age of 18. Those who have the right to vote and who have been resident in the realm for at least 10 years are eligible for election as *Storting* representatives. Universal suffrage was introduced in 1898 for men and 1913 for women.

Each of the 19 counties represents a Constituency. Between 4 and 16 representatives are elected from each Constituency based on the number of eligible voters in the country. The *Storting* itself cannot be dissolved during its term of office. The period of representation is four years, regardless of any changes in the government. Representatives who are appointed as government ministers are required to withdraw from the *Storting* for the duration of their term of office.

Norway has a multi-party system. In the present election period, between September, 1989 and September, 1993, the following six parties are represented in the *Storting*. The Labour Party, Conservation Party—Party of Progress, Socialist Left Party, Christian Democratic Party and Centre Party.

ISLAMIC REPUBLIC OF PAKISTAN

Historical Background

Pakistan emerged on the world map on August 14, 1947 as a result of the partition of British India. The emergence of Pakistan was the culmination of the struggle by Muslims for a separate homeland consisting of muslim majority provinces of undivided India. The geographical area that comprises Pakistan is one of the most ancient civilization of the world known as the Indus Valley Civilization.

Pakistan lies on the border of West Asia and South Asia, with India to the East, Afghanistan and Iran to the West, China and the mountainous ranges to the North. To the South lies the Arabian Sea.

Pakistan's record with parliamentary democracy may be chequered, but its return to this form after each pause and break more than vindicates the fact that democratic traditions are deep-rooted in Pakistan's policy. The founder of Pakistan, Quaid-i-Azam Mohammad Ali Jinnah became the first Governor-General of Pakistan. With the passing away of the Quaid-i-Azam Mohammad Ali Jinnah in September 1948 and the assassination of the first Prime Minister, Mr. Liaquat Ali Khan, protracted political instability ensued. The First Constituent Assembly which was given the task of framing the Constitution in 1947 was unable to do so in seven years. The then Governor General, Mr. Ghulam Mohammad, dissolved it. The Second Constituent Assembly framed the Constitution in 1956, and an Islamic Republic was proclaimed on 23rd March,

which is observed every year as Pakistan Day. This Constitution was federal and parliamentary in character. The existing four provinces in West Pakistan were welded into one unit while East Pakistan constituted the second unit.

Ministerial instability had, however, become endemic and it paved the way for an Army take-over. Maj. Gen. Iskandar Mirza, the then President, declared Martial Law in the country early in October, 1958, and appointed General Mohammad Ayub Khan, the then Commander-in-Chief, as the Chief Martial Law Administrator. General Mohammad Ayub Khan assumed powers of the President and promulgated a new Constitution in March 1962 introducing the Presidential form of democracy in the country. Pakistan continued to be a Federation. The new Constitution introduced indirect system of elections for the President as well as the federal and provincial legislatures through an Electoral College. The system did not find acceptance among the people. There was a mass movement in 1969, whereupon he resigned and handed over power to General Yahya Khan, the then Commander-in-Chief, who promulgated Martial Law after abrogating the 1962 Constitution. General elections were held for the National and provincial Assemblies in December 1970. The Awami League gained majority of seats in the National Assembly while the Pakistan People's party won a sizeable number of National Assembly seats from the four provinces in West Pakistan. Various factors intervened, and a civil war ensued in East Pakistan in March 1971 which resulted in the emergence of Bangla Desh as an Independent Country on 16 December 1971.

on 20 December, 1971 General Mohammad Yahya Khan resigned and Mr. Zulfikar Ali Bhutto, leader of the PPP, assumed the office of President and Chief Martial Law Administrator and convened the National Assembly. Martial Law was lifted on 21 April, 1972, after framing an Interim Constitution. There after, a permanent Constitution was adopted and enforced on 14 August, 1973. It was federal in character with parliamentary republican system.

The first general elections under the 1973 Constitution were held in March 1977, but there were allegations of large-scale rigging by the ruling People's party which resulted in country-

wide agitation. On 5 July., 1977, Martial Law was proclaimed and General Mohammad Zia-ul-Haq, Chief of the Army Staff, became the Chief Martial Law Administrator (CMLA).

During the last seven years Democracy in Pakistan has been scrupulously upheld by the political leaders. In early 1985, elections on non-party basis were held and Mr. Mohammad Khan Junejo became the Prime Minister who revived the Pakistan Muslim League. Martial Law was lifted in December 1985. Invoking his Constitutional powers President Zia-ul-Haq dismissed the Junejo government in May 1988 on charges of Corruption. President Zia-ul-Haq died in a tragic plane crash in August 1988. Elections were held in December 1988 and Ms. Benazir Bhutto became the Prime Minister. Her government was dismissed in August 1990 by president Ghulam Ishaq Khan on charges of large scale corruption and administrative ineptitude. Mr. Mohammad Nawaz Sharif of the IDA became the Prime Minister as a result of the last elections held in the country in November 1990.

Constitution

The Constitution of Pakistan was adopted on April 12, 1973. It led to the creation of the Senate and the National Assembly of Pakistan as legislative bodies. The Constitution provides for a federal parliamentary system of Government, with president as the Head of State and the popularly elected Prime Minister as the Head of Government and the country's Chief Executive. The Constitution provides safeguards for fundamental rights to all citizens, protection of the rights of minorities, promotion of social and economic well-being of the people, removal of regional disparities and strengthening of Local Government Institutions.

Parliamentary System

The Federal Legislature consists of the Senate and the National Assembly. The Senate is the Upper House of the Parliament. The Constitution lays out the methodology for the election of the Senate. This legislative body derives equal representation from all the four federating units and has a total membership of 87. About one half of the members are elected for six years' term after every three years. Each provincial Assembly in the four provinces elects 19 Members each for the Senate. The Federally Admin-

istrated Tribal Areas (FATA) are represented by eight Members, while the Federal Capital, Islamabad has three seats in the Senate.

The National Assembly is the Lower House of the Parliament, with a total membership of 217 elected through universal adult suffrage (an adult of 21 years of age can vote). The life of National Assembly is divided into sessions. It must meet for at least 130 days and there must be at least three sessions in a year.

Political Parties

Pakistan is a multi party State. Political activities in Pakistan were suspended from July, 1977, following the imposition of Martial Law. In October 1979 following the postponement of the general elections scheduled for November, all political activity was banned. The elections of February 1985 were held on a non-party basis. In December that year the political parties (Amendment) Act permitted political parties to function, subject to a stringent registration process. This process was simplified as a result of amendments suggested by the Supreme Court in September 1988.

Major National Political parties in Pakistan are; Pakistan Muslim League (PML); Pakistan People Party (PPP); Islami Democratic Alliance (IDA); Jama' at Islami etc. Regional political parties include National Awami Party, Mouhajir Qaumli Movement (MQM), Tahrika Istiqlal, Jamiatul Aulama-e-Islam etc.

PANAMA

Introduction

Tombs and other archaeological remains throughout the country attest to the existence of a rudimentary pre-Columbian culture.

The Spanish navigators first sighted the Isthmus in 1501. The following year Christopher Columbus, in his fourth and final voyage to the New World, visited the northern shores of Panama and founded the first Spanish settlement.

Under Spanish rule for the succeeding centuries, the Isthmus was variously administered as a separate province (*Audiencia Real de paname*) or as part of the Captaincy General of Guatemala, the Viceroyalty of Peru or the Viceroyalty of the New Granada.

During the seventeenth century Panama was visited with a degree of prosperity, due in part to the wealth attracted by the then-renowned Fairs of Portobelo, held in the locality of the same name, in central Panama. (The ruins of the thriving colonial port can still be seen some 40 Kms East of the present-day Colon Free zone, of which Portobelo was in fact precursor and forebear)

The Napoleonic invasion caused Madrid to loosen its grip over its New World domains, a region already in ferment with the ideas of the Enlightenment, the French Revolution and the (North) American Declaration of Independence. The wars of independence ensued in full measure soon after the restoration in Spain.

In 1821, Jose de Fabrega, the commander of the Spanish garrison stationed in Panama, supported the libertarian aspirations of the local population and, along with a Council of Notables, declared the country independent. Immediately afterwards Panama annexed itself to the Gran Colombia (present-day Colombia, Venezuela and Ecuador), in part to secure its newly gained freedom, but most of all in adherence to the Bolivarian ideal of forging a single state of all the former Spanish American colonies.

The Gran Colombia eventually dissolved, and Panama remained a Department of Colombia until 1903 when, with the support of the United States, the country finally proclaimed its independence.

Contemporary Developments

The 1968 coup, staged by the military, interrupted the democratic progression of the country.

The hiatus lasted until 1989, when direct presidential elections were held with the presence of international observers. But civil and political liberties were restored only after the US invasion in December of the same year and the installation of the constitutional government of President Endara.

After years of mismanagement and *de facto* rule by the military, the Endara Administration is bent on economic recovery, the restoration of the rule of law and the consolidation of the country's democratic institutions.

It has in addition three independent bodies responsible for: controlling and overseeing public funds, guaranteeing freedom, honesty and effectiveness of the popular vote, and defending the interests of the state and the Municipalities. These bodies are : the office of the Comptroller General of the Republic, the Electoral Tribunal and the Attorney General's office.

PAPUA NEW GUINEA

Introduction

Papua New Guinea lies east of Indonesia and north of the north-eastern extremity of Australia. It was formed by the merger of the Territory of Papua, under Australian rule from 1906, with the Trust Territory of New Guinea, a former German possession which Australia administered from 1941. A joint administration for the two territories was established by Australia in July, 1949. The union was named the—Territory of Papua and New Guinea. A Legislative Council was established in 1951 and was replaced by a House of Assembly, with an elected indigenous majority in 1964. It achieved full independence on September, 1975, when the House of Assembly became the National Parliament. Michael Somare became the Prime Minister.

Constitution

The present constitution came into effect on 16 September, 1975. The Constitution provides for the integral human development, equality and participation in the development of the country. All people are entitled to the fundamental rights and freedoms of the individual rights. The Constitution provides for the right to vote and stand for public office, the right to freedom of information and of movement and equality before the law. The Government comprises the National Parliament, the National Executive and the National Judicial System. The judiciary is independent and the National Judicial System comprises of the Supreme Court, the National Court, Local and Village Courts.

Parliamentary Set up

The National Parliament or the House of Assembly is a 109-member single Chamber elected by universal adult suffrage for a term of five years. Out of these 109 seats, 89 represent open constituencies and 20 represent provincial constituencies.

Executive power is vested in the Head of the State, the British monarch, represented locally by a Governor-General. The latter is appointed by the Head of the State on the proposal of the National Executive Council for a period of six years and acts on the advice of the National Executive Council, led by the Prime Minister. The National Executive Council is responsible to the Parliament. The Head of the State appoints and dismisses the Prime Minister on the proposal of the National Parliament and other Ministers on the proposal of the Prime Minister.

Electoral and Political System

All citizens of Papua New Guinea above 19 years of age are eligible to vote in the election. Members of Parliament are elected by universal adult suffrage for a term of five year.

Political pluralism is in vogue in the country. Among the prominent parties in Papua New Guinea are the Melanesian Alliance (MA), the National Party (NP), the Pangu Pati, the People's Action Party (PAP) and the Peoples Democratic Movement (PDM).

PARAGUAY

Endowed with lush green surroundings and situated between two powerful Latin American neighbours—Brazil and Argentina, with Uruguay bordering it to the north—Paraguay is one of the first countries of the South American continent to attain Independence from alien Rule in 1811, after about 300 years of Spanish dominance beginning in 1537.

The country has a homogenous population of Mestizos which follows Spanish religio-cultural values but speaks Indian language Guarani at home. The social structure is egalitarian.

Since 1811, Paraguay has had five Constitutions, the first one called Constitutional government Regulations was adopted in 1813, which was revised extensively at the instance of the then ruler Carlos Antonio Lopez in 1844. Then in 1870, a Constituent Assembly following a war with Tripartite Alliance of Brazil, Argentina and Uruguay during 1865-70 adopted a new constitution—the third one. Next, as a result of a political stalemate in 1939, the Congress was dissolved and the then President Jose Felix Estigarribia assumed absolute powers and promulgated a new Constitution in 1940. In the post second world war era, President General Alfredo Stroessner Mattiauda in office since 1954—had adopted the present Constitution in 1967.

Constitutional Set-up

The Constitution of Paraguay has 12 chapters containing 231 articles besides a Preamble and a chapter on transitory provisions. It declares the country to be a unitary republic with repre-

sentative democratic form of Government. The two official languages are Spanish and Guenl and State religion is Roman Catholicity. A salient constitutional feature is an exhaustive description of citizen's fundamental rights in Chapter V which has in all 79 articles. Yet another feature is, provisions regarding composition, selection and functions of the Legislature, the Executive the Judiciary and the Attorney General in Chapters six to ten of the Constitution.

The real executive authority of the State is vested in the President in terms of the Article 180 of the Constitution who, besides being commander-in-chief of the armed forces, appoints, with consent of the Senate, Ambassadorso abroad and judges of the Supreme Court. He appoints Attorney General, Ractor of National University, heads of Central and National development Bank and a few other defence and civil administration officials. He also appoints Cabinet Ministers and defines functions of their respective Ministries. The Constitutions prescribes the minimum number of Ministers to be five but does not set any maximum limit. Also, there is no provision for impeachment either of the President or of the Cabinet Ministers. Besides, the President has powers to declare a state of seize and war etc. and has other powers as are available to his counter-parts in other democracies such as conferring honours, granting patronages etc. To be a President, a persons must be Paraguayan, 40 years or above inage and Roman Catholic, besides other qualifications. He has a five year term commencing from August, 15 of the year of election. For contingencies, a Provisional President is elected by a convocation of National Congress and Council of States, who serves full five year term in case his predecessor has completed two years or more in office. In case the incumbent has been in office for less then two years fresh elections or held within 3 months of the occurance.

The Council of State is the most important executive institution in the country which, besides cabinet Ministers, consists of Archibishop of Asuncion, the Ractor of National University and Head of Central Bank, all Presidential appointees and representatives from three armed services, agriculture, Labour, Industry and Commerce. It is an advisory body on matters of national and international importance.

Legislature

Paraguay has a bicameral Legislature called National Congress comprising a popularly elected Senate and Chamber of Deputies. The State has a membership of 30 and the Concil of Deputies has a membership of 60 with provision of election of alternates for both Houses who serve the remainder of the term of Legislators in case of death, resignation, or temporary disability. Thus, the need for by-elections to fill in casual vacancies stands eliminated. Besides two regular sessions, there is provision for special session also in a year. Minimum age limit for membership is 25 and 40 years respectively for Chamber of Deputies and Senate with requirement of native citizenship. Persons in active defence service and those from commercial enterprises engaged in public service and enjoying certain concessions from the Government are not eligible to contest.

The National Congress, before its adjournment in December, appoints a standing Committee of Six Senators and 12 Deputies to act till the following session, on its behalf. The Committee elects its own officers and conducts valid sessions with simple majority. Its main powers are to oversee the working of the Constitution and receive and pass on to the National Congress the election returns of the President and the Congress-men and exercises other powers assigned to it by the Constitution.

Electoral and Party System

Electoral Statute Law No. 886 of 1981—with 204 Articles contains regulations pertaining to the electoral system. According to it "the suffrage is right, duty and public function of the elector." As per the system, a Party obtaining majority of votes, receives 213 of the seats in Congress and the rest are divided among other parties in proportion to the votes obtained by them at the elections. The law enjoins upon parties to obtain atleast 10,000 signatures for resignation and forbids them from propagating communist ideology, aligning with hostile forces, obtaining financial support from abroad and owing allegiance to a foreign political organisation.

The Central Electoral Board is the main body for conduct of elections and implementing provisions of the electoral statute.

The majority Party in Congress holds 213 seats in the Board also.

Party System

Since 1876 Paraguayan polity has been a two party system with Colorado Party as the dominant political force since 1947 and has the support of armed forces, national police and paramilitary forces besides others. President Stroessner is the Chief of the Colorado party. The other important political party is Liberal Party which ruled the country between 1904-1940.

PHILIPPINES

Introduction

The Republic of the Philippines lies in the Western Pacific Ocean, east of mainland South East Asia. The island of (Borneo is to the South-West and New Guinea to the South East. The Principal islands of the Philippine archipelago are Luzon, in the north, and Mindanao, in the south.

The Philippines became a Spanish Colony in the 16th century. During the Spanish—American War, the independence of the Philippines was declared on 12th June, 1898 by General Emilio Aguinaldo, leader of the revolutionary movement. By the Treaty of Paris, signed in December, 1898, Spain ceded the islands to the USA. A new Constitution, ratified by plebiscite in May, 1935 gave the Philippines internal self-government and provided for independence after 10 years. During the second World War, the islands were occupied by Japanese forces from 1942, but after Japan's surrender in 1945, US rule was restored. The Philippines became an independent republic on 4 July, 1946 with Manuel Roxas as its first President.

Constitutional Set up

A new Constitution for the Republic of Philippines was ratified by national referendum on 2 February, 1987. The President

is Head of State, Chief Executive of the Republic and Commander-in-Chief of the armed forces. The President is elected by the people for a six-year term and is not eligible for re-election. The President appoints a Cabinet and other officials, with the approval of the Commission on Appointments.

Parliamentary System

Until 1972, the legislature was known as Congress. Under the 1973 Constitution however, it was renamed the National Assembly (*Batasang Pambansa*). Under the 1987 Constitution, the legislature is again known as Congress.

Legislative Power is vested in the bicameral Congress of the Philippines, consisting of the Senate and the House of Representatives, with a total of 274 members.

The Senate is composed of 24 members. Senators are directly elected for six years by national vote, and must be natural born citizens, at least 35 years of age, literate and registered voters in their district. They must be resident in the Philippines for at least two years prior to the election and no Senator shall serve for more than two consecutive terms. No treaty or international agreement may be considered valid without the approval, by voting, of at least two thirds of members.

A maximum of 250 Representatives may sit in the House of Representatives. Its members may serve no more than three consecutive three-year terms. Representatives must be natural born citizens, literate, and at least 25 years of age.

Electoral and party System

Elections are supervised by the Commission on Elections, which registers political parties. Suffrage is granted to all citizens over 18 years of age, who have resided for at least one year previously in the Republic of the Philippines, and for at least six months in their voting district. Voting is by secret ballot.

In the early 1980s, party politics was clearly overshadowed by charisma of personality. The New Society Movement (*Kilusang bagong Lipunan—KBL*) was the only dominant party. This party

was created by former President Ferdinand E. Marcos and was the only party that had branches in all local subdivisions of the Government. Some of the other parties which emerged later as reactions are : People's Power (Lakas ng Bayan—LABAN); UNIDO; Social Democratic Party (SDP); Philippine Democratic Party (PDP); etc.

POLAND

Introduction

The Republic of Poland (until December 1989, the Polish People's Republic) is situated in Eastern Europe, bounded to the North by the Baltic Sea and an enclave of Russia, to the north-east by Lithuania, to the east by Belarus, to the South east by Ukraine, to the West by Germany and to the South by Czechoslovakia.

Poland, partitioned since the 18th century was declared an independent republic on 11 November 1918, when the First World War ended. The country was ruled by a military regime from 1926 until 1938, when it was invaded by Nazi Germany and later by the USSR. The invading powers partitioned Poland again. After Germany declared war on the USSR, in June 1941, its forces occupied the whole of Poland until being driven out by Soviet troops in March 1945.

The election of January, 1947 was won by a Communist led 'democratic bloc.' A People's Republic was established in February, with the Polish Worker's Party (PWP), led by Wladyslaw Gomulka, as the dominant political group. Following disputes within the PWP, Gomulka was dismissed in 1948 and arrested in 1949 after having been accused of 'rightist and nationalist deviations'. In December 1948, the Communist PWP emerged with the Polish Socialist Party to form the Polish United Workers Party - PUWP. In 1956, a Political upheaval emerged which resulted in Gomulka's

return to office. Soviet intervention was resisted by the new leaders and a period of liberalisation followed.

Constitutional Set Up

Originally the Constitution was adopted on 22 July 1952 which was amended in 1989, to incorporate reforms such as the establishment of an Upper legislative Chamber, and again in 1990, to permit the holding of direct Presidential elections. In April 1992, the procedural law for the drafting of a new Constitution was approved by the *Sejm*.

The President of the Republic of Poland is the highest representative of the Polish State in domestic and international spheres. He is to monitor observance of the Constitution, safeguard the sovereignty and security of the State, inviolability of its territory and observance of Political and Military alliances entered into by the State.

The Council of Ministers is the supreme executive and managing agency of State authority, serving functions typical of the executive branch carrying out the decisions adopted by the *Sejm*.

Parliamentary System

Legislative Power is vested in the bicameral National Assembly, which is elected for a four year term, -subject to dissolution, -and comprises the 100-member Senate (the Upper Chamber) and 460 member *Sejm* (lower chamber). The Senate reviews the laws adopted by the *Sejm* and may propose their rejection. All Senators are elected by a majority vote on a provincial basis. Each province is represented by two Senators, with elect three delegates. In the *Sejm*, however, deputies are elected under a complex system of proportional representation: 391 members are chosen from lists for multi-seat electoral districts, the remaining 69 deputies being elected from national lists.

Electoral and Party System

Election to the *Sejm* and Senate, and to People's Councils, is universal, equal, direct and carried out by secret ballot. At the age of 18, every citizen has the right to vote, and is eligible for

election to people's councils; at the age of 21, every citizen is eligible for election to the *Sejm* and Senate. Candidates to the *Sejm* and Senate are nominated by Political and Social organizations uniting citizens of town and country. Any person aged over 35 years with full electoral rights may stand as a presidential candidate, a minimum of 1000,000 signatures being required to secure nomination.

The President is elected for a five year term and may be re-elected only once.

Under the 1990 law, Political Parties are not obliged to file for registration, but by 1 May 1992 a total of 135 parties had been registered. Some of the important are : Centre Alliance; Christian National Union; Democratic Party; Democratic Union; Labour Party; Confederation for an Independent Poland; Democratic Union etc.

PORTUGAL

Introduction

The West European country of Portugal was ruled by the monarchy till 1910 when the king was deposed in a bloodless revolution and a republic was proclaimed. The country witnessed a period of instability until a military coup installed the regime of the Estado Novo in 1926. A new Constitution establishing a corporate state was adopted in 1933. Another Constitution was framed which took effect on 25 April 1976. Portugal's first civilian President in 60 years Dr. Mario Soares took office in March 1976.

Constitution

The Constitution of the Portuguese Republic promulgated on 2 April 1976 came into force on 25 April. It was revised in 1976. Further revisions, which included the removal of Marxist elements, were approved by the Assembly of the Republic in 1976. The Constitution defines Portugal as a sovereign republic based on the dignity of the individual and the will of the people striving to create a just, caring and free society and to realize economic, social and cultural democracy. It is the fundamental duty of the State to safeguard national independence, guarantee fundamental rights and freedoms, defend political democracy, encourage citizens' participation in the solving of national problems, and promote the welfare, quality of life and equality of the people. Political power lies with the people. The organs of sovereignty are the President of the Republic, the Assembly of the Republic, the

Governments and the Courts. There are Courts of First Instance, Courts of Second Instance, the Supreme Administrative Court and the Supreme Court of Justice in Addition to the Constitutional Tribunal to administer justice. Constitutional changes require the approval of a majority of two-thirds of the members of the Assembly present, provided that the number of such members exceeds an absolute majority of the members entitled to vote.

Parliamentary Set up

Portugal has a unicameral Assembly having a minimum of 230 and a maximum of 235 members, elected by the electoral constituencies. The functions of the Assembly, among others, include the presentation and approval of amendments to the Constitutions, approval of the political and administrative statute of the Autonomous Regions and the Statute of the territory of Macau, enactment of legislation, approval of plans and Budget and proposing to the President that questions of national interest be submitted to referendum. The Assembly has a term of four years and the legislative session runs from 15 October to 15 June each year. There are 19 permanent Committees (for one session) and also *ad hoc* committees.

The President of the Republic represents the State and is elected by direct and universal adult suffrage. The candidate who obtains more than half the valid votes is elected President and holds office for five years. The President presides over the Council of States, convenes extraordinary sessions of the Assembly of the Republic, appoints and dismisses the Prime Minister and on latter's recommendations appoints and dismisses the members of the Government. The Government is responsible to the President and the Assembly and the programme of the Government is presented to the Assembly for scrutiny within 10 days of the appointment of the Prime Minister.

The Council of State is the political consultative organ of the President of the Republic. It is presided over by the President of the Republic, the Prime Minister, the President of the Constitutional Tribunal, the Superintendent of Justice, the Presidents of the Regional Governments, certain former Presidents of the Republic, five citizens nominated by the President of the Republic and five citizens elected by the Assembly of the Republic.

The special political and administrative arrangements for the arcaipelagos of the Azores and Madeira are based on their geographical, economic and social conditions and on the historic aspirations of the people to autonomy. The sovereigns of the Republic is represented in each of the Autonomous Regions by a Minister of the Republic.

Electoral and Party System

Members of the Assembly are elected by universal adult suffrage for a term of four years. The President is elected also by popular vote for a five-year term.

Portugal has a multi-party system. Among the important political parties in Portugal are the *Partido do Centro Democrático Social* - CDB, the *Partido Comunista Português* - PCP, the *Partido Social Democrata* - PRD, the *Partido Socialista* - PS, and the *Partido de Solidariedade Nacional* - PSN.

THE REPUBLIC OF KOREA

Introduction

The Republic of Korea (South Korea) forms the southern part of the Korean peninsula, in eastern Asia. To the north, separated by a frontier which roughly follows the 38th parallel, is the country's only neighbour, the Democratic People's Republic of Korea (North Korea).

Korea was formerly an independent monarchy. It was occupied by Japanese forces in 1905 and formally annexed by Japan in 1910, when the Emperor was deposed. Following Japan's surrender in August 1945, ending the Second World War, Korea was divided at latitude 38 N into military occupation zones, with Soviet forces in the North and US forces in the South. In the North a provisional People's Committee, led by the *King Il Sung* of the Korean Communist Party (KCP), was established in February 1946 and given government status by the Soviet occupation forces.

UN-supervised elections for a national assembly took place in May 1948. The Assembly adopted a democratic Constitution, and South Korea became the independent Republic of Korea on 15 August 1948, with Dr Syngman Rhee, leader of the Liberal Party, as the country's first President. South Korea, like its northern neighbour did not join UN until September 1991, although it did become a member of numerous UN specialized agencies.

Constitutional Set UP

The Constituent Assembly of the Republic of Korea was created on May 31, 1948, despite the division of the Korean peninsula into the South and North since the end of World War II. It adopted a Constitution stipulating a Unicameral legislature and a Presidential system of government on July 12, 1948, and promulgated it on July 17 the same year. The Constitution has been amended many times thereafter. The Constitution of the Sixth Republic was approved by national referendum on 27 October, 1987. It came into effect on 25 February 1988.

The executive power is held by the President, who is directly elected for on term of five years by Universal suffrage. The President appoints and governs with the assistance of the State Council (Cabinet) led by the Prime Minister.

Parliamentary System

Legislative power is vested in the Unicameral National Assembly, popularly elected for a four-year term.. The Assembly is composed of 299 members, of which 237 are elected from single-member electoral districts by universal, equal direct and secret ballots for a term of four years. The remaining 62 members are elected through a proportional representation system where they are distributed among the political parties which have won at least five seats in the general election. A regular session is held once a year and extraordinary sessions may be convened upon suggestion from the President or request from one quarter of the Assembly members. It has the power to recommend to the President the removal of the Prime Minister or any other Minister.

Two types of Committees are provided by the National Assembly Act, the Standing Committees and the Special Committees. In general, the Standing Committees are established, according to the National Assembly Act, corresponding to the jurisdiction of Government Ministries and Agencies, and they deliberate bills and other related matters. There are presently 17 Standing Committees : House Steering; Legislation and Justice; Foreign Affairs and National Unification; Administration; Home Affairs; Agriculture; Energy and Resources; Trade and Industry, etc.

Special Committees may be set up by a resolution of the

Assembly for the consideration of special bills or matters which may fall under the jurisdiction of more than one Committee, or which the National Assembly deems necessary for special consideration. The Special Committee remain in existence until the bill or matters referred to them are resolved by the Assembly.

Electoral and Party System

Every citizen, at least 20 years of age, is entitled to vote in the elections. Any citizen having reached the age of 25 or above is eligible for candidacy to the membership of the National Assembly.

According to the new Constitution of 1988, an Election Management Committee shall be established for the purpose of fair management of elections and national referendums.

The establishment of political parties shall be free and the plural party system guaranteed. However, a political party whose aims or activities are contrary to the basic democratic order may be dissolved by the Constitutional Court.

A Political Party which holds more than 20 seats in the National Assembly forms one Parliamentary group. At least 20 members of the National Assembly who do not belong to any Parliamentary group may form an independent group. Some of the major parties are : The Democratic Liberal Party; The Democratic Party; The Unification National Party; etc.

ROMANIA

Introduction

Evenly divided among hills, mountains and plains, with mountains dominating central and North-Western territories and plains South East. Romania borders to the East and North on the Republic of Ukraine and the republic of Moldavia, to the West on Hungary, to the South-West on Yugoslavia, to the South on Bulgaria and to the South-East on the Black Sea.

Born, just like the other Romanic peoples, in the 1st millennium *a.d.*, the Romanian people has unfailingly inhabited the selfsame geographical space to this day.

The Romanians lived from the middle ages to the modern times in three neighbouring, self-dependent principalities—wallachia, Moldavia, Transylvania, which, for all their location at the crossroads of big expansionistic empires—the Ottoman Empire, Czarist Russia and the Habsburg Empire, managed to preserve their state entity, faith and civilization. In spite of the hostility and open opposition of the same great neighbours, they managed to achieve their national unity in 1859.

In 1918, at the end of World War I, the centuries—old dream of reunification for all the Romanians within the boundaries of one single nation-state, came true. The ensuing two decades of economic, political and cultural advance are cut short soon after the outbreak of World War II. In 1945, after 4 years of war, the

nearly one-century long democratic traditions are cut short by Soviet troops and the forcible imposition of the communist regime. The hopes awakened by the distance taken from the Soviet model over 1960-1968 are soon dispelled by the coming to power of one of the most oppressive and absurd totalitarian regime-that of Nicolae Ceausescu.

That dictatorial rule is brought to an end by the revolution of December 1989, which closes the historical gap Romania lived in for 45 years.

Constitutional Set-up

Romania has had four Constitutions since December 1947. The first, declaring the country as the People's Republic was adopted by the Grand National Assembly in April, 1948 but was replaced only four years later, with the one modelled on the pattern of the Soviet one. The second one worked for about 13 years when in August, 1965 it was replaced by another one reflecting Romania's social and ideological development and the fourth one was adopted in November, 1991 by the National Assembly and was approved later at a referendum in December, 1991. The present Constitution declares Romania to be a republic where the rule of law prevails in a social and democratic state. Private property rights and an open market system are guaranteed, and natural resources are public properties which can be leased.

The head of the State is a directly elected President who can have 2 terms of 4 years each. In the October 1993 election. Mr Ion Iliescu was, elected to the office for a second term securing 60% votes.

Voted by the Constituent Assembly on 21st November, 1991 and validated in the referendum of 8th December, 1991 proclaims Romania a state of law, democratic and social, in which human dignity, civic rights and freedom, the unhindered development of human personality, justice and political pluralism are supreme and guaranteed values.

The head of state is the President of Romania, elected directly by universal vote, for two 4-years terms at the most. In the October, 1993 election, Mr. Ion Iliescu was elected to the

office securing 60 per cent votes.

The President represents the Romanian state, watches over the activity of public authorities, fulfills the office of supreme commander of the armed forces and chairman of the supreme defence council. He nominates a candidate for the office of Prime Minister and appoints the Government on the basis of the confidence vote received from the Parliament.

A constitutional court is also set up to interpret matters concerning the constitution.

Parliamentary Set-up

Romania has a bicameral legislature consisting of Deputies Chamber and the Senate. Both the Houses are directly elected bodies by a system of Modified proportional representation—the number of seats won in each constituency being determined by the proportion of the total votes. Total membership of the Deputies' Chamber is 328 while that of the Senate is 143. Both Houses have a term of 4 years.

Electoral and Party Systems

Romania's electoral system is based on the principles of universal adult franchise and modified proportional representation.

All citizens aged 18 years and above have the right to cast vote both at Presidential and Parliamentary election. For contesting an election, the minimum prescribed age is 23 for Deputies Chamber and 35 for the Senate. Of repression are ineligible for electoral offices. Independents are eligible for elections to the Deputies Chamber and Senate provided their candidature is sponsored by at least 251 electors. A Presidential candidate has to seek the support of atleast 10,000 electors and once elected, he has to give up his party affiliations. There is a provision for recall of members also.

Romania is multi-party democracy with 11 political parties and ethnic groups having representation in the two Houses of Legislature. Following the September, 1992 elections the Government is formed by the Democratic front of National Salvation.

RUSSIAN FEDERATION—RUSSIA

Russian Federation at present comprises 21 autonomous republics, 6 territories, 49 regions, 1 autonomous region, 10 autonomous areas and 2 cities (Moscow & St. Petersburg) under the direct central jurisdiction and itself is a member of the Commonwealth of Independent States (CIS). After disintegration of the USSR, Russia is now bounded by Norway, Finland, Estonia, Latvia, Lithuania, Poland, Belarus, Ukraine, Georgia, Azerbaijan, Kazakhstan, China, Mongolia and North Korea. However its maritime borders still remain unaltered with 12 seas of the Arctic, Atlantic, and Pacific oceans washing its coasts.

Russia has a great and ancient history that can be traced to the later centuries of the first millennium A.D. Its contemporary part started with the socialist revolution in October, 1917. In January, 1918 the Russian Soviet Federative Socialist Republic (RSFSR) was created. It headed the military and political union of Soviet Republics through the years of Civil war and foreign military intervention. From 30 December, 1922, RSFSR is a member of the Union of Soviet Socialist Republics (USSR). The RSFSR as a major constituent of the USSR played an important role during World War II and contributed significantly to making the Soviet Union a world power. In the process of the Union's disintegration in December, 1991 the RSFSR has initiated (together with Ukraine & Belarus) the formation of the Commonwealth of Independent States (CIS). In April 1992 the name of the Republic was changed to "the Russian Federation-Russia".

Constitutional Set-up

The Constitution of the Russian Federation provides for a directly elected President. In the elections held in June, 1991 Mr. Boris Nikolaevich Yeltsin was elected to this office. The President has a right to nominate the Prime Minister, but the nomination is subject to confirmation by the Supreme Soviet. Other Ministers are appointed by the President on the advice of the Prime Minister. The appointment of the Ministers of Interior, Security, Defence and Foreign Affairs also requires approval of the Supreme Soviet.

Legislature

The Supreme Legislative Body of the Russian Federation is the Congress of People's Deputies with a membership of 1068. The Deputies are elected directly. The present Congress was elected in 1990.

The Supreme Soviet, elected from amongst the Deputies of the Congress, is a bicameral permanent legislative body consisting of the Council of Nationalities and the Council of the Republic. Both Chambers have equal strength and powers.

Political Parties

A multi-party state is emerging now in Russia. Currently there are over 22 registered political parties and movements functioning with the most of them having membership of only few thousand. But the process of conglomeration of political forces has already started in the country. Among the major contemporary parties are the Democratic Party of Russia, People's Party of Free Russia, Republican Party, the Movement of Democratic Russia, which supports President B.N. Yeltsin, etc. In February, 1993 the Russian Communist Party was restored.

RWANDA

Introduction

Rwanda, a land-locked country in central Africa became independent on July 1, 1962, after over half a century of foreign rule, first by the Germans and then by the Belgians. Belgium administered Rwanda first as a mandated territory under the League of Nations, and then as a trust territory under the United Nations. Both the colonial powers ruled the country indirectly through the traditional hierarchical system in which the Tutsi, an ethnic minority dominated over the majority Hutus. In the 1950's, the Hutus challenged the Tutsi domination and eventually wrested power from the Tutsi in the election held in 1960. The monarchy was abolished in 1961.

Independence did not draw the sting of racial disorders. Tension between Hutus and Tutsi flared up in 1972-73. In July, 1973, the Minister of Defence and head of the National Guard, Maj. Gen. Juvenal Habyarimana led a bloodless coup against President Gregoire Kayibanda, proclaimed the Second Republic and established a military administration. In August, a new Council of Ministers was formed with Habyarimana as the President. Habyarimana was elected as President of Rwanda in 1978 and was re-elected in 1983 and 1988.

Constitution

A national referendum in December, 1973, approved a new Constitution aimed at returning the country into normal govern-

ment. The new Constitution for the Rwandese Republic came into force on 19 December, 1978. The Constitution provides for equality among citizens, who exercise national rights through their representatives. Also guaranteed are fundamental liberties, as defined in the Declaration of Human Rights.

Parliamentary System

Legislative power is held by the President and the National Development Council (NDC) elected every five years by universal adult suffrage. The NDC was established in December, 1981 to replace the previous National Assembly dissolved in July, 1973. The Council may ensure the head of government by a vote passed by four-fifths of its members but may not dismiss him. Such a vote would oblige the government to change its policies or its ministers.

Executive power is exercised by the President who is both the Head of State and President of the sole legal party *Mouvement révolutionnaire national pour le développement* (MRND), and to whom the government is responsible. He is elected for a five year term of office and may be re-elected, provided that he is not over 60 years of age. In the event of the President's incapacity or death, the Secretary-General of MRND acts as his successor pending the election of a new President, which must be held within 90 days. The President, who nominates and dismisses Ministers, presides over the Council of Ministers, negotiates and terminates all international treaties; promulgates laws; and is the Commander-in-Chief of the Armed Forces.

Election and Party Systems

Deputies to the National Development Council are elected by universal adult suffrage for a five-year term. In December, 1988, 70 deputies were elected to the third Council from a list of 170 candidates approved by the MRND.

Mouvement révolutionnaire national pour le développement (MRND) is the sole legal party which seeks to eradicate ethnic conflict, and to promote national unity; advocates responsible democracy and common development goals.

SAN MARINO

Introduction

The Republic of San Marino lies in Southern Europe. It is the sole survivor of the numerous independent States which existed in Italy prior to its unification in the 19th Century. A treaty of friendship and co-operation exists with Italy.

Constitution

San Marino is divided into nine "Castles" corresponding to the original Parishes of the republic. Each "Castle" is governed by a Castle-Captain, who holds office for two years, and an Auxiliary Council, which holds office for five years.

Parliamentary set-up

Legislative Power is vested in the unicameral Great and General Council, with 60 members elected by universal adult suffrage for five years. The Council elects two of its members to act as jointly as Captain-Regents with the functions of Head of State and Government, for six months at a time, ending in March and September. Executive Power is held by the Congress of State, with 10 members elected by the Council for the duration of its term. The Congress presided over by the Captain-Regent, has three Secretaries of State and seven Ministers of State.

Electoral and Party System

Members to the Great and General Council are elected by

universal adult suffrage. San Marino has evolved multi-party Political system with the Parties parallel to those in Italy. Among the prominent parties are the *Partido Democratico Cristiano Sammarinese (PDCS)*, the *Partido Democratico Progressista (PDP)* and the *Partido Socialista Samonarinense (PSS)*.

SENEGAL

Introduction

The Republic of Senegal lies in the West Coast of Africa. It was a French colony and in 1958 became a self-governing member of the French Community. In April, 1959, Mali Federation, linking Senegal with Mali was formed but was dissolved after two months when Senegal seceded to become a separate independent state. The Republic of Senegal was proclaimed on 5 September, 1960, with Leopold Sedar Senghor, leader of the *Union Progressiste senegalaise* (UPS), as the country's first President.

Constitution

The Republic of Senegal is governed by the Constitution of 1963 as amended from time to time. The constitution asserts that sovereignty resides in the people, exercised through their representatives or through referenda. It affirms the Rights of Man, liberty of the person and religious freedom. Suffrage is universal and secret. Amendment to the Constitution is proposed by the President of the Republic and Deputies to the National Assembly. Draft amendments are adopted by a three-fifths majority vote of National Assembly. Failing this, they are submitted to referendum. Members of the Supreme Court are appointed by the President on the advice of the Superior Court of Magistrates which determines the constitutionality of laws with the judicial reform of 1992. there is no longer the Supreme Court but the Constitutional plus High Court.

Parliamentary set up

The President of the Republic is elected by direct universal suffrage for a seven-year term and may seek re-election only once. The President holds executive power and as Commander of the Armed Forces, is responsible for national defence. The President of the Republic appoints the Prime Minister. He may, after consultation with the President of the National Assembly, with the Prime Minister and with Constitutional Council, submit any draft law to referendum. In circumstances where the security of the State is in grave and immediate danger, he can assume emergency powers and rule by decree. The Prime Minister is appointed by the President of the Republic, and, in turn, appoints the Council of Ministers in consultation with the President. The President of the Republic can be impeached only on a charge of high treason or by a secret ballot of the National Assembly carrying a three-fifths majority.

Legislative power is vested in the 120-member National Assembly which is elected by universal direct suffrage for a five-year term. The Assembly discusses and votes legislation and submits it to the President of the Republic for promulgation. The President can direct the Assembly to give a second reading to the bill, in which case it may be made law only by a three-fifths majority. The President of the Republic can also call upon the Supreme Court to declare whether any draft law is constitutional and acceptable. Legislation may be initiated by either the President of the Republic or the National Assembly. Should the Presidency fall vacant, the President of the National Assembly is automatic successor to the Head of State. A motion expressing "no confidence" in the Government can be considered if it has been endorsed by one tenth of the members of the Assembly.

Electoral and party system

Senegal has universal, equal and secret suffrage for adults of 18 years of age and above. There is a multi-party system in Senegal. Among the significant political parties are *And-Jef Parti africain pour la democratie et le socialisme* (AJ-PADS), the *Ligue democratique-Mouvement pour le parti du travail* (LD-MPT), the *Parti democratique senegalais* (PDS), the *parti pour la liberation du peuple* (PLP), and the *parti socialiste senegalais* (PS).

ADD CDP Garabgui which presented a candidate in the latest presidential elections (1993)

Mean Republic powers are :

—Executive power

—Legislative power

—Judicial power

These 3 powers are called (less Institutions de la Republique)

N.B. : The term "Supreme Court" is to be withdrawn since the above judicial reform of 1992 and replaced by ("Constitutional Council and High Court").

SINGAPORE

Introduction

The Republic of Singapore, comprising one main island and several offshore islands, belongs to the region of South-East Asia. It was a British Crown Colony and in 1959 achieved complete internal self-government with Lee Kuan Yew as Prime Minister. Singapore seceded from the Federation of Malaysia in 1965 of which the former was a constituent State since 1963, and became an independent country. Later, it declared itself as a republic with a President as constitutional head of the State.

Constitution

With the establishment of the self-governing State of Singapore in 1959, a new Constitution came into force on 3 June which was subsequently amended as a consequence of Singapore's affiliation to Malaysia and later as a result of its adoption of republican status on 22 December, 1965. The Constitution was again amended in January, 1991 to provide for the election of a President by universal adult suffrage and to enlarge the responsibilities of the Presidency. The Constitution can be amended by a two-thirds vote of Parliament. The Supreme Court of Singapore is the highest appeal tribunal and the judiciary functions as the Chief guardian of the Constitution through its judicial review of the constitutionality of laws. The Constitution guarantees a set of fundamental liberties to the citizens of Singapore.

Parliamentary set-up

The Constitution of Singapore provides for a Parliamentary system of government. The Legislature consists of a Parliament of 81 members, presided over by Speaker who may be elected from the members of Parliament Themselves or appointed by Parliament although he may not be a member of Parliament. Members of Parliament are elected by universal adult suffrage for five years in single-member and multi-member constituencies. A general election must be held within three months of the dissolution of Parliament. Parliamentary procedure generally follows the British pattern.

The President is the Head of the State and is elected by universal adult franchise for a four—year term and normally acts on the advice of the Cabinet. However, he is vested with certain functions and powers for the purpose of safeguarding the financial reserves for Singapore and the integrity of the Public Services. Effective executive authority rests with the Cabinet, led by the Prime Minister, which is appointed by the President and responsible to Parliament.

Electoral and Party System

Members of Parliament are elected by universal adult suffrage from forty-two single member constituencies and thirteen group representation constituencies which would return "teams" of three Members of Parliament. At least one member of each team was to be of minority (non-Chinese) racial origin. In 1991, the Constitution was further amended, stipulating that the number of candidates contesting "group representation constituencies" should be a minimum of three and maximum of four. Voting is compulsory for all citizens above the age of twenty-one.

Since 1959, the political scene of Singapore has been dominated by a single Party—the People's Action Party (PAP). Among the other Political Parties in Singapore are : the *Angkatan Islam*, the *National Solidarity Party*, *Pertubuhan Kebangsaan Melayu Singapura* (PKMS), the *Singapore Democratic Party*, the *Singapore Justice Party*, the *United People's Front* (UPF) and the *Worker's Party*.

SPAIN

Introduction

The Kingdom of Spain lies in the South-Western Europe. It was engulfed in a civil war during 1936-39 which was won by the Nationalist forces led by Gen. Francisco Franco Bahamonde who established an authoritarian rule. He was able to provide peace and stability while restricting individual liberties and repressing any kind of challenge to power. In 1942, Franco revived the traditional legislative assembly, the Cortes (Courts), with limited powers. He announced in 1947 that the monarchy which was abolished in 1931 would be restored after his death or retirement. Gen. Franco died in 1975 and was succeeded as Head of State by King Juan Carlos.

Constitution

The Constitution of the Kingdom of Spain was approved by popular referendum on 6 December, 1978, and promulgated on 29 December, 1978. The Constitution confirms Spain as a parliamentary monarchy and established Spain as a social and democratic State whose supreme values are freedom, justice, equality and political pluralism. National sovereignty and power reside with the people. The Constitution is based on the indissoluble unity of the Spanish nation, and recognises and guarantees the right to autonomy of the nationalities and regions. The Constitution guarantees a set of fundamental rights and freedoms. Any approval, modification or repeal of the organic laws, which concern the

development of fundamental rights and public freedoms, and other matters specified in the Constitution requires an absolute majority in the Congress of Deputies. Justice is administered in the name of the King by judges and magistrates subject only to the law. There is also a constitutional court consisting of 12 members appointed by the King to monitor observance of the Constitution.

Parliamentary set up

Legislative power is vested in the Cortes Generales, comprising two Houses, elected by direct universal adult suffrage for four years, subject to dissolution. The Congress of Deputies has 350 members, elected by proportional representation, and the Senate has 208, directly-elected members, plus 46 regional representatives. A party can gain representation only if it obtains at least 3% of the votes. Each House lays down its own rules of procedure and elects its own president and governing body. There is a standing committee of 21 members in each House to look after affairs while the Cortes is in recess or during electoral periods. Measures are adopted by a majority in both Houses provided that a majority of the members is present. If agreement is not reached between the Congress and the Senate, a joint committee must attempt to solve the differences by drawing up a text to be voted on again by both Houses. In the case of further non-agreement, the issue is decided by an absolute majority of vote in Congress.

The Cortes may delegate the power to issue measures called Legislative Decrees with the status of law to a governmental legislative body. In urgent cases the Government may issue provisional measures in the form of Decree-Laws not affecting the fundamental laws and rights of the nation, which must be voted upon by the Cortes within 30 days. All laws must be sanctioned by the King within 15 days of their approval by the Cortes.

The King is the Head of State, the symbol of its unity and permanence. The Crown is hereditary. He appoints the President of the Government (Prime Minister) who is voted into office by Congress by absolute majority. If no President is elected within two months, the King will dissolve the Cortes and convene new elections with the President of Congress's approval. The other ministers of the Government are designated by the President.

Electoral and Party System

In Spain, the age of maturity is 18, suffrage is free and universal and every person has a right to public service. Members of the Cortes Generales are elected by direct universal adult suffrage.

According to the Constitution, Spain is a Parliamentary democracy, with freedom for political parties. Political pluralism is guaranteed by the Constitution. Among the principal parties in Spain are: the Centro Democrático y Social (CDS), the *Izquierda Unida* (I.U.) the *Partido Popular* (PP) the *Partido Socialista Obrero Español* (PSOE), the *Convergència i Unió* (C.i.u., Catalonia) and the *Partido Nacionalista Vasco* (PNV, Basque),

See distribution of Seats in Parliament).

Distribution of Seats

Congress of Deputies

(General Election, 1989)

PSOE, Socialist	175
PP, Conservative	107
I.U., Communist-Left	14
CDS, Centrist	18
CIU, Basque Nationalist	5
OTHERS	14

Total	350
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The President of the Spanish Government (Prime Minister) is Mr. FELIPE GONZALEZ, Leader of the Socialist Party (PSOE).

SRI LANKA

Introduction

Sri Lanka is an Island situated in the Indian Ocean and separated from India by the Palk-Strait (34Kms). Sri Lanka is a major producer and exporter of tea and rubber, coconut, spices and garments.

Sri Lanka (formerly Ceylon) was a British colony until 1948 when it gained Independence. From 1948 to 1977, it was a Parliamentary Democracy on the Westminster model ruled first by the United Nationalist Party between 1948-56, 1960 (March-July), 1965-70, and 1977 to date, and by the Sri Lanka Freedom Party between 1956-59, 1960 July-65 and 1970-77. The UNP led by J.R. Jayewardene amended the 1972 constitution and introduced the Executive Presidential form of Government in October 1977, with J.R. Jayewardene as first Executive President. Mr. Jayewardene was succeeded to the Presidency in January 1989 by Mr. Rana-singhe Premadasa, who since then is the President.

Constitutional Set up

The present Sri Lanka Constitution was prepared by the National State Assembly (renamed Parliament) on 17 August 1978 and promulgated on 7th September 1978. The constitution guarantees the fundamental rights and freedoms to all citizens including freedom of thought, conscience and worship and equal entitlement before the law.

Under the Presidential form of Government, adopted in

October 1977, and confirmed in the constitution of September 1978, the President is the Head of State, and he exercises all executive powers. The President is elected directly by the people for a term of six years and is eligible for re-election to the second term. He is not accountable to Parliament and is empowered to dismiss the Parliament.

Parliamentary System

The Parliament is the repository of the people's power. It consists of such number of representatives of the people as the Delimitation Commission may determine. The Members of Parliament are directly elected by a system of modified proportional representation. Parliament exercises the judicial power of the people through courts, tribunals and institutions created, established or recognised by the constitution or by law. Parliament has control over public finance.

The Sri Lankan Parliament has a strong and active Committee system comprising Legislative Standing Committee, Select Committee and Committee for special purposes such as the Committee of Selection and the Committee on Standing Orders, Public Accounts, Parliamentary Business, on Privileges, on Public Enterprises and on Public Petitions.

Electoral & Party Systems

Democratic Socialist Republic of Sri Lanka has adopted an electoral system based on Universal adult franchise. Right to vote is granted to all citizens who are 18 years old or above and do not suffer from certain disqualifications e.g. insanity. Citizens who are 30 years in age or above and are not members of police, armed forces, or the civil services can run for elective offices. An important feature of the electoral system is the absence of by-elections as, under the Sri Lankan constitution, vacancies can be filled by the nominees of political parties who won the seats in the general elections.

The party system in this Island Republic has been viable and stable since the first general elections held in 1952. Since 1980, a multiparty system has been in vogue. The major political outfits being the UNP, SLFP, LSSP (Lankan Sama Samaja Party), Communist Party of Sri Lanka, and TULF (Tamil United Liberation Front), the Ceylon Workers Congress, and DUNF (the recently constituted Democratic United National Front).

SUDAN

Introduction

The north-east African Republic of Sudan was ruled as an Anglo-Egyptian condominium from 1899 until the country became independent as a parliamentary Republic on 1 January, 1956. The army took control of the State in a coup in 1958 and ruled the country until October, 1964 when it was overthrown in a civilian revolution. A group of officers led by Col. Gaffar Mohammed Nimeri again seized power in 1969 and ruled the country through the Revolutionary Command Council (RCC). Nimeri was also deposed in a bloodless military coup in 1985 whereupon a Transitional Military Council together with a civilian Council of Ministers governed the country. Later a transitional constitution was introduced. Elections were held in 1986 and the country returned back to civilian rule. However the military again seized power in June, 1989.

Constitution

The Popular Revolt of 1985 led to the replacement of April, 1973, Constitution by an interim Constitution in 1985. On 30 June, 1989, the Revolution of National Salvation came to power.

Parliamentary System

The Revolution of National Salvation of 1989 resulted in rapid dismantling of the civilian ruling apparatus. A national conference to decide the country's political future was held during 19

April - 2 May, 1991. At the opening of the Conference, the release of all political prisoners was announced. In February, 1992, Lt. Gen. Omar Hassan Ahmad Al-Bashir, who had led the Revolution and became the Head of the State, appointed a 300 Member Transitional National Assembly. The Assembly which consisted of appointed Member by Al-Bashir was vested with legislative authority, with the authority to examine all decrees issued by the Revolutionary Command Council (RCC) and with the preparation of the country for parliamentary election.

Al-Bashir who became the Head of the State after June, 30th appointed a cabinet to rule the country. The Sudan was divided in 1991 into nine States, subdivided into 66 provinces and 281 local government areas. Under a new federal system of government, each of the new State was assured responsibility for local administration, while the Central Government retained control over foreign policy, defence, the economy and all other principal areas of administration.

Electoral and Political System

The National Conference of April-May, 1991 on the Political System adopted the conference system as the basis for political system of the country. Through free vote people will choose their representatives at the basis level all over the country. Those representatives will be up-grades to the level of local conference, the province conference, the state conference and the National Assembly. There are also constituencies for professional trade unions such as engineers, lawyers etc., and youth, workers and farmers trade unions.

The President of the Republic will be elected by free universal suffrage.

SURINAME

Introduction

The Republic of Suriname lies on the North-East coast of South American. It is bordered by Guyana to the West, by French Guyana to the East, and by Brazil to the South.

Settlers from England landed in Suriname in the 1630s, and the territory was alternately a British and a Dutch Colony until it was eventually awarded to The Netherlands by the Treaty of Vienna in 1815. The Colony's economy depended on large sugar plantations, for which labour was provided by slaves of African origin. Following the abolition of Slavery in 1863, immigration of labourers from India and then Dutch East Indies was encouraged, and many of them settled permanently in Suriname. Under a charter signed in December, 1954, Suriname (also known as Dutch Guiana) became an equal partner in the Kingdom of the Netherlands, with the Netherlands Antilles and the Netherlands itself, and gained full autonomy in domestic affairs.

Constitutional Set-Up

The Constitution of 1975 was suspended in August, 1980, following the overthrow of the elected Government in February that year and the formation of a National Military Council (NMR), comprising eight military officers. In 1982, an interim President was appointed by the NMR (later renamed the Supreme Council—Toberaad), and martial law was imposed, although a predominant civilian Cabinet of Ministers presided over by a Prime

Minister) was appointed. A National Assembly was created in January, 1985 to prepare a new Constitution. The draft Constitution was approved by the National Assembly on 31 March, 1987 and ratified by a national referendum in September the year.

Executive authority is vested in the President, who is elected for a term of five years and is the Head of State, Head of Government, Head of the Armed forces, Chairman of the Council of State, the Cabinet Ministers and the Security Council.

The Government comprises the President, the Vice-President and the Cabinet and the Security Council. The Cabinet is appointed by the President from among the members of the National Assembly. The Vice-President is the Prime Minister and leader of the Cabinet, and is responsible to the President.

The Council of States Comprises the President (its Chairman) and 14 additional members, composed of two representatives of the combined trade unions, one representative of the associations of employees, one representative of the National Army and 10 representatives of the political parties in the National Assembly.

Parliamentary System

Under the provisions of a new Constitution, legislative power is held by the National Assembly and the Government jointly. The National Assembly Comprises 51 members elected for a five-year term by universal adult suffrage. The Assembly elects a President and a Vice-President and has the right of amendment in any proposal of law by the Government. The approval of at least two thirds of the member of the National Assembly is required for an amendment to the Constitution, the election of the President, the decision to organize a plebiscite and a People's Congress and for amendment of electoral law. If it is unable to obtain a two-thirds majority, the Assembly may convene a People's Congress and supplement its members with members of local councils.

Electoral and Party System

All citizens of Suriname residing in the country, who are at least 18 years of age are entitled to vote,

Qualified electors at least 21 years old, who reside and have resided for two years in the district where running for election, may be candidates for the National Assembly if not otherwise ineligible. All candidates must belong to political party and be supported by a given member of electors.

National Assembly members are elected from 10 Constituencies on the basis of a party-list drawn on the basis of proportional representation system that involves categorical voting. Substitutes elected at the same time and titular members fill Parliamentary vacancies which arise between general elections, recording to the order of names on the Party list.

Main challengers among political parties are : New Front for Democracy and Development; National Democratic Party; and Democratic Alternative.

SWEDEN

Introduction

The Kingdom of Sweden lies in North-Western Europe, occupying about two-thirds of the Scandinavian peninsula. It is bordered by Finland to the North-East and by Norway to the North-West and West. Sweden is the fifth largest country in Europe (if you include Russia and Ukraine). Sweden has been a constitutional monarchy, traditionally neutral, since the early 19th century. During this time, the country has not participated in any war or entered any military alliance. Norway, formerly united with Sweden, became independent in 1905. From 1932 until 1976, except for a short break in 1936, Sweden was governed by the Social Democratic Party, either alone or as the major partner in coalitions (1936-39 and 1951-57). During these 44 years, the country had only three Prime Ministers, all Social Democrats. Since the Second World War, Sweden has become an active member of many international organisations, including the UN, CSCE, EFTA and the Council of Europe. Sweden has applied for membership in the EC and negotiations are ongoing. The Government presently consists of a non-socialist minority, comprising the Moderates, Liberals, Center and Christian Democrats. Sweden follows a policy of non-alliance. It takes active part in the formation of a new security structure in Europe.

Constitutional Set-up

The Swedish Constitution consists of four separate docu-

ments, the Instrument of Government passed in 1974, the Act of Succession dating back to 1810, the Freedom of the Press Act of 1949 and the Freedom of Expression Act of 1991. In addition, there is a Parliament Act of 1974, which occupies a position midway between Constitutional and Ordinary Statute Law.

Following partial reforms in 1968 and 1969, a new Instrument of Government, the most important Constitutional document (it replaced the 1809 Instrument of Government) and a new *Riksdag* Act were adopted in 1973 and 1974, and the revised Constitution came into force on 1 January, 1975. The new Constitution is based on the principles of popular sovereignty, representative democracy and parliamentarism.

Parliamentary System

Sweden is a constitutional monarchy with parliamentary form of Government. Following the Constitution within the *Riksdag*, the Speaker nominates a candidate for Prime Minister. After the *Riksdag* premiership has approved the Prime Minister, he/she nominates the other members for the Government. Since 1971, Sweden has had a Unicameral Parliament (*Riksdag*). A Constitutional Amendment adopted in 1968-69 abolished the bicameral system which had existed since 1866. (The whole parliament is constituted by direct elections based on a suffrage that comprises all Swedes aged 18 or over, who are or have been resident in Sweden).

Parliament has 349 members, who serve a three year term. Eligibility to serve in parliament is subject to Swedish citizenship and the attainment of voting age.

Each newly-elected parliament appoints for its three year term at least fifteen standing committees, *i.e.* for Constitutional matters, for Budget and Finance, for Taxes and others largely corresponding to the division of ministries. Additional Committees may be constituted while Parliament is in session. On these Committees the parties are represented in proportion to their strength. Committees may allow Cabinet Ministers to attend their meetings in order to provide information. Ministerial officials are often requested to attend such meetings in order to provide explanations and other relevant information.

Electoral System

In order that local and national government's terms of office should coincide, the Constitution calls for local and general elections to be held on the same day. In both cases, the term of office for the elected candidate is three years. Members are directly elected by proportional representation. Sweden has had Universal Suffrage since 1921 and the voting age is 18. Under the provision of legislation passed in 1976, all alien residents in the country for three years are permitted to vote in local elections.

Party System

The seven parties in Parliament are: the Moderate Party, the Centre Party, the Liberal Party, the Left Party, the Social Democratic Party, the Christian Democratic Party and New Democracy.

The Parties are well organized, both in Parliament and outside. Since 1966, State subsidies have been paid to every political party which has any significant support from the voters, as manifested in the general elections.

SWITZERLAND

Introduction

Switzerland is a small federative State in the middle of Europe, bounded to the North by Germany, to the East by Austria, to the South by Italy and to the West by France.

For many centuries, in fact from the Middle age of the 19th century, it had been only a Union or League of States of very limited size. It occupied its present area since its borders were fixed by the treaty 1815. At the same time, it was internationally recognized as a neutral country. Despite the strategic importance of Switzerland, its permanent neutrality has never been affected, and it avoided involvement in both World Wars.

Although Switzerland has long been the headquarters of many international organizations, the country has not yet joined the United Nations. However, Switzerland maintains a permanent observer at the UN and has joined the non-political UN specialized agencies.

Constitutional set up

The Constitution was adopted on 29 May, 1874. Switzerland is divided into federated cantons which have sovereign authority except where the Constitution defines limits to their powers or accords responsibility to the Federal authority. After a referendum in September, 1978, the Constitution was amended to allow for the formation of the canton of Jura, increasing the num-

ber of Cantons to 23 (three of which are subdivided and they are sometimes collectively referred to as the 26 States). The 26 Cantons and half-cantons of the Swiss Confederation have their own Constitution and method of choosing the members of the Cantonal assembly, cantonal government and the states councillors who represent them at the federal level.

Parliamentary System

The Swiss Parliament federal Assembly consists of two chambers with internal powers.

The National Council consists of 200 members who represent the Swiss people. Seats are allowed in proportion to the resident population of each canton. There has been a system of proportional representation since 1919. The Council of States has 45 members who represent the Swiss Cantons. Each canton elects two members, generally using the majority system.

The decisions taken by Parliament are initially drafted by Standing of Select Committees. Standing Committees deal with following matters: finance, control, foreign affairs, political institutions, legal affairs, science, education and culture, social security and health, environment, town and country planning, energy economic affairs and taxes, transportation and telecommunications, security policy (defence), public buildings. The two Houses have three joint committees. The Administrative Committee; The Committee on pardons and the Drafting Committee.

Electoral and Party System

All Swiss aged 18, have voting rights in federal matters. The powers of the electors are more extensive than in many a country. The 200 members of the National Council are elected directly, by proportional representation, every four years. The Council of States represents the Cantons, each of which sends two Councillors, elected by the people in various ways according to the Cantonal Constitutions. The Councillors of the Federal Assembly are chosen from the members of the Federal Councillors for four years after every general election.

Referendums are held on both cantonal and federal levels. The initiative gives voters in many cantons the right to propose a

constitutional amendment. The amendments introduced in this manner concern relatively unimportant matters and participation of the voters is, on an average 40% to 45%. The initiative is also used by the political opposition to bring about changes in Government policy.

Switzerland has a multi-party system. Some of the major important parties are: Radical Democratic party; Social Democratic Party; Christian Democratic People's Party; Swiss People's Party; Green Party; Liberal party; Jodelpendent Alliance; Automobile party; Swiss Democrats, etc.

SYRIAN ARAB REPUBLIC

Introduction

Situated in West Asia and an important Member of the Arab Community, Syria can take pride in its ancient culture and civilisation. The Syrian capital Damascus is one of the oldest capital cities in the world. Today, the society is secular and progressive in outlook and has not kept itself confined to the forewalls of Islam.

Syria, or the Syrian Arab Republic, remained under Ottoman occupation till the end of the First World War. The alien rule and the repression, suppression and compression resultant therefrom had generated among the Syrian a respect for democratic values particularly individual freedom. They got the opportunity to put these long cherished ideals into practice when in 1919, the Syrian Congress met to adopt a new Constitution for the country, which was drafted in 1928, but as the country was faced with an invasion, the ratification of the Constitution was delayed. Ultimately, the Baath revolution of 8 March, 1963 brought in an era of democracy and following people's referendum, a permanent Constitution for the country was ratified. The referendum followed the Corrective Movement in 1970 led by General Hafez-Al-Assad now President of the Country.

Constitutional Set-up

The Syrian Constitution came into force in March, 1973. It

provides for a democratic, sovereign and Socialist Republic and establishes a one party Presidential System in the country. The President is Head of the State, Supreme Commander of the Armed Forces as well as the Chief Executive. His powers include the power to appoint and remove the Vice President and the Prime Minister as well as to dissolve the People's Council. The President is elected for a term of 7 years. His candidature is proposed by the people's Council on the recommendations of the Politbureau of the Baath-Party and confirmed at a referendum.

IN addition, the Constitution provides for a single party rule, fundamental freedoms, rights and duties of the citizens. Economic educational and cultural principles of State policy. Its founding principles include :

- (i) Continuity of the Arab Revolution for the need to achieve the aims of Unity, liberty and Socialism and syrian Revolution being a part thereof;
- (ii) Establishment of Socialist regime, besides being necessary, represents the basic need to mobilise all the potentialities of the Arab Masses in the battle against Zionism and Imperialism;
- (iii) Freedom is a sacred right and guaranteeing freedom makes citizens give in their best for the benefit of their nation. Freedom is never complete without economic and social freedom.

Parliamentary System

The Legislative power is exercised by the peoples' Council which is a unicameral body, has a strength of 250 and is elected for a four year term. It holds two Sessions in a year but in extraordinary situation the President or the Speaker may call a special session. The Council functions with the help of a Bureau consisting of Speaker, Acting Speaker, two Secretaries and two observers. Sessions of the Council cannot be conducted unless a majority of its Members is present. It had four General Elections since 1977, the last one held on 1990.

The People's Council functions through a well-organised system of Parliamentary Committees. There are two categories of

committees, permanent, and interim Committees, appointed for a certain period or task. Permanent Committees number 11 and People's Council has the power to create more such Committees or to add new assignments to the existing ones. Important permanent Committee or on (i) Legislative and Constitutional Affairs (ii) Financial laws (iii) Arab and Foreign Affairs (iv) National Security (v) Interior and Local Administration and so on.

Electoral and Party Systems

Like most other electoral systems, Syrian electoral system is also based on the universal adult suffrage. All citizens who are 18 years old, registered in the Civil Status Register and fulfil certain other conditions prescribed by law are eligible to vote for the people's Councils. Every Member of the People's Council represents entire nation and not a particular territory. Another striking feature of the System, Electoral System is that, State Employees including those of the Public Sector may contest elections but once elected, they have to devote their full time to the Council's work. Yet another feature is time limit set to fill the casual vacancies through by elections. These are to be filled within 90 days from the date of occurrence provided that remainder of the Council's term is more than six months.

National Progressive Front is the only political organisation functioning in the country since 1972. The Front consists of seven political parties including the Communist Party and the Baath Arab Socialist Party. The Baath Party enjoys a position of pre-eminence in the Front. The President of the Republic is its Secretary General and its role is enshrined in the Constitution.

THAILAND

Introduction

Formerly known as Siam, the Kingdom of Thailand lies in South-East Asia. The army has been playing a dominant role since 1947 when it seized power. The latest one took place on 23 February, 1991 when Gen. Chatichai Choonhavan's Government was ousted in a bloodless military coup. Gen. Sunthorn Kongsompong, the Supreme Commander of the Armed Forces, assumed administrative power as the Chairman of the newly-created National Peace-Keeping Council (NPC).

Constitution

Following the military coup of 23 February, 1991, the 1978 Constitution was abrogated and the National Assembly and the Council of Ministers were dissolved by the National Peace-keeping Council which had assumed the control of the country. In March 1991, an interim Constitution was published, which provided for the drafting of a new Constitution which was promulgated on 9 December. The new Constitution provides for the creation of a legislative body, the National Assembly, comprising an elected House of Representatives and an appointed Senate, and a Cabinet headed by a Prime Minister. The King is the constitutional head of the State.

Parliamentary set up

The National Assembly consists of two Houses, the 360-

member House of Representatives and the 270-member Senate. In June 1991, the National Assembly approved constitutional amendments, where by the Prime Minister was required to be a member of the House of Representatives, the authority of the Senate was restricted as its right to vote with the House of Representatives on "no-confidence" motions, and the President of the House of Representatives was to be the President of the National Assembly.

Electoral and Party System

Following the military coup in 1991, political activities and gathering had been banned. There was a crack-down on the pro-democracy demonstrators in May, 1992. The 17th general elections in Thailand took place in September, 1992 for the 360-member lower House in which the pro-democracy forces led by Chuan Leekpai, secured a thin majority. Among the important political parties in Thailand are the Democrat Party (DP), the Akkaphan, the New Aspiration Party, the Palang Dharma, the Solidarity Party, the Democratic Labour party, the Samakkhi Tham and the Social Action Party.

Togo

Introduction

The Republic of Togo was a part of the German colony of Togoland that became a League of Nations Mandate under French administration in 1919 and a UN Trust Territory after World War II. In October, 1956, in a plebiscite, the French Togoland voted to become an autonomous republic within the French Community. The new Togolese Republic had internal self-government until becoming fully independent on 27 April, 1960. Sylvanus Olympio became the first President elected (unopposed) in 1963 and a provisional government was established. Later in a referendum Nicolas Grunitzky was confirmed as the President who was also deposed later on by the armed forces in a bloodless military coup in 1967 led by Lt. Col. (later Gen.) Etienne Gnassingbe Eyadema, the Army Chief of Staff who assumed the office of president.

Constitution

Since independence, Togo has had several Constitutions. The draft of a new Constitution was completed in December, 1990 to replace the 1979 Constitution. The new document, which was due to be submitted for approval in a national referendum in December, 1991, provided for the appointment of a Prime Minister and for the establishment of a constitutional council (which would have jurisdiction over the constitutionality of legislation, and ensure the equitable separation of the powers of the organs of State). The document also provided for the eventual establishment of a

multi-party political system. However, the provisions of the draft Constitution were superseded by the promulgation, in April, 1991, of legislation regarding the immediate legalisation of political parties. A revised Constitution was originally scheduled to be introduced before the end of April, 1992. However, on 16 July, 1991 delegates to the national conference voted to suspend the 1979 Constitution, with immediate effect. A constitutional commission was formed in October, 1991 to draft a new document, which upon completion, was to be submitted to a national referendum, followed by local, legislative and presidential elections.

Parliamentary Set up

In 1986, President Eyadema was re-elected for a further seven-year term. Bowing to the popular pressure, the President promised democratic elections and legalized opposition parties. In 1991, the Government also agreed that a "national conference" should have the power to choose a transitional Prime Minister and to establish a transitional legislative body, in preparation for legislative and presidential elections. Later, the national conference dissolved the National Assembly, elected the reformist Joseph Kokou Koffigoh as Prime Minister and formed a transitional legislature to be known as the *Haut Conseil de la Republique* (HCR). Legislative elections are expected to be organised in the context of a multi-party political system following the adoption of a new Constitution and electoral code.

Electoral and Party System

In January, 1992, an electoral schedule was announced, envisaging the conducting of a referendum on a new Constitution and of local, legislative and presidential elections. Later, the Council of Ministers abandoned the electoral time table and elections based on multi-party system are yet to take place in Togo.

Following the announcement to allow the establishment of independent political parties in 1991, numerous political parties were formed and were accorded official status. By mid 1991, there were at least 13 parties co-ordinating their activities under a body called the *Coalition de l'opposition democratique* (COD).

TUNISIA

Tunisia, cross-roads of civilizations, holds a privileged position on the map of the world.

Situated on the northern tip of Africa, Tunisia is a naturel gateway to Europe, Africa and the Middle East.

Tunisia was granted full independence on the 20 march 1956. Soon elections were held for a constitutional assembly, which met in april and appointed Habib Bourguiba, the leader of the Neo-Destour (New Constitution Party), which has led the independence compaign. The monarchy was abolished and republic was established in 1957 with Bourguiba as the President.

A new constitution was promulgated in june 1959 and the first National Assembly was elected in november. Although a one party system was not institutionalized, the Parti Socialiste Destourien (PSD) was the only legal party between 1963 and 1981. In 1987, President Bourguiba was declared by doctors unfit to govern owing to senility and ill heath and in accordance with the Constitution, Zine El-Abidine Ben Ali, the Prime Minister of Tunisia, was sworn in as President.

The Constitution

The Constitution of the Republic of Tunisia was ratified in 1959, but it has been subject to a number of amendments in the intervening years. The Original Constitution provided for a presidential style of government, entrusting significant powers in the hands of the President. The separation of power is not a rigid one

and all the three branches of government, the executive, the legislature and the judiciary, are dominated by the President. Although judicial independence is prescribed, the status of the judiciary is clearly regarded as inferior to that of the other two branches. The Constitution guarantees to the citizens of Tunisia several basic liberties, including equality before the law, freedom of expression, the press, the right of public worship. Any amendment or revision by a minimum of one third of the members of the National Assembly. Adoption of an amendment requires two separate votes at least three month apart, each by a minimum of two thirds of the assembly membership, to become effective, a constitutional amendments so adopted must be promulgated by the President.

Parliamentary Set up

The Tunisian Parliament is unicameral and, since april 1976, has been called the Chamber of Deputies. Legislative power is exercised by the Chamber of Députés which is elected, at the same time as the President, every five years by direct universal suffrage. The Chamber of Deputies holds two sessions every year, each session lasting not more than three months. Additional meetings may be held at the demand of the President or of a majority of the deputies. The development plan must be approved, as must government revenues and expenditures, in accordance with the budget organic law. The Chamber of Deputies elects from its membership an executive bureau headed by the President of the Chamber and four permanent commissions, or committees, covering political affairs, cultural and social affairs, financial and economics affairs and general legislation.

The President of the Republic is both head of State and the Executive. He is elected by universal suffrage for a five year term which is renewable twice, consecutively. The President appoints a Council of Ministers headed by a Prime Minister which is responsible to him. The Government may be censured by the Chamber of Deputies in which case the President may dismiss the Chamber and hold fresh elections. If censured by the new Chamber thus elected, the Government must resign. In case, the presidency falls vacant for any reason before the end of the President's term of office, the President of the Chamber of Deputy takes charge of affairs of the State for a period of 44 to 60 days. Presidential

election is organised at the end of this period. The President of the Chamber of Deputies is not eligible to stand as a Presidential candidate.

Electoral And Party System

Every citizen, who had tunisian nationality for at least five years and who has attained 20 years of age, has the right to vote. Deputies to the Chamber of Deputies must be at least 28 years of age and must have been born of a tunisian father.

Tunisia was a one-party state between 1963 and 1981, although an amendment to the electoral code in 1979 allowed more than one candidate for each seat. Since 1981, a multi-party system was officially permitted by law. In 1988, the Chamber of Deputies approved proposals that were said to "institutionalize" multi-party politics, stipulating strict criteria for the registration of political organisations. Among the major political parties in Tunisia are :

- The Democratic Constitutional Rally (RCD).
- The Movement of Socialist Democrats (MDS).
- The Tunisian Communist Party (PCT).
- The Popular Unity Party (PUP).
- The Social Party for Progress (PSP).
- The Progressist Socialist Rally (RSP).
- The Unionist Democratic Party (UDU).

There are three human rights associations along with these political parties :

- The Tunisian League for Human Rights.
- The Tunisian Association for the Defense of Human Rights and Public Liberties.
- The Tunisian Chapter of Amnesty International.

TURKEY

Introduction

The lands of Turkey are located at a point where the three continents making up the old world, Asia, Africa and Europe are closest of each other, and straddle the point where Europe and Asia meet. The country, surrounded by Greece, Bulgaria, Ukraina, Russia, Georgia, Amrania, Iran, Iraq and Syria, as well as by the Black Sea, Aegean Sea and the Mediterranean Sea, which are located in the northern half of the hemisphere at a point that is about half way between the Euqator and the North Pole. It is roughly rectangular in shape and is 1600 kilometers long and 550 kilometers wide.

Because of its geographical location, the mainland of Anatolia has always found favour throught historical times as the birthplace of many civilizations. It has also been prominent as a center of commerce because of its connections to three continents and the sea surrounding it on three sides.

The Republic of Turkey, founded in 1923, has its roots in two historical resources well in the depths of the past. One of these resources inherited by modern Turkey is the successful and bright history of the Turks over a time frame of more than 4000 years. The other is the fact that Turks have settled in Anatolia since the 11th Century.

The modern Republic of Turkey is the successor state to

the Ottoman state which was disintegrated at the end of the First World War. The Ottoman state was a Turkish Empire, founded by the Osmanli (Ottoman) Dynasty, ruled by monarchs, called Sultans, with its capital in Istanbul. The Ottoman state emerged defeated from the war, together with her allies, and compelled to sign the Mudros Armistice on 30 October, 1918, upon which all the strategic parts of Turkey were occupied by the victors. When the occupation started to spread out, a national resistance movement commenced. Under the leadership of MUSTFA KEMAL ATATURK, the resistance became cohesive, its forces progressively turned into an organised army and the movement became a full scale war of independence. Upon the foundation on 23 April, 1920, of the Turkish Grand National Assembly in Ankara, a National Parliament representing all parts of Turkey came into existence.

When the decisive battle at Dumlupinar on 26 August, 1922, called the "Battle of the Commander-in-Chief" (Bashkomutanlik Savashi) ended with victory for the Turkish forces, and following this, Izmir was liberated on 9th September, 1922, the War of Independence finally ended in victory.

On 1 November, 1922, the Sultanate was abolished. On July 24, 1923, the Lausanne Peace Agreement was signed, and the Turkish Grand Assembly announced on 13 October, 1923 that Ankara was the new capital.

On 29 October, 1923, the Republic was proclaimed. On 3 March, 1924, the Caliphate was abolished. Following the foundation of the Republic, a series of reforms took place one after the other; through amendments to the civil code, women were given social rights and privileges, the Latin alphabet was adopted, and a secular state was formed.

Political Structure

The Republic of Turkey is a democratic, secular and social State governed by the rule of the Law, bearing in mind the concept of public peace, national solidarity and justice; respecting human rights, loyal to the nationalism of ATATURK, and based on the fundamental tenets set forth in the Preamble of the Constitution which was adopted in 1982.

The President of the Republic is the Head of the State. In this capacity, he represents the Republic of Turkey and the unity of the Turkish nation. He ensures the implementation of the Constitution, and the regular and harmonious functioning of the organs of the State. The elections for the President is held every seven years.

There is a multi-party system in Turkey. Lagislative power is vested in the Grand National Assembly of Turkey on behalf of the Turkish nation. This power cannot be delegated.

The Grand National Assembly of Turkey is composed of 450 Members of Parliament who are elected by the nation for every five years.

The Prime Minister is appointed by the President of the Republic from the Members of the Grand National Assembly of Turkey, and the Ministers are appointed by the Prime Minister.

In addition to these, there are 73 Governors and 73 City Mayors who are affiliated to the Ministry of Interior. Governors are appointed by the Government. City Mayors are elected every five years.

The 450 Members of the Grand National Assembly (Buyuk Millet Meclisi) are elected in 104 multi-member constituencies by a party-list proportional representation system and the d'Hondt method. There is a double barried system to ensure local and national representatives of parties. A candidate from a political party can only be elected if the party has —

- (a) completed its organization in at least half of the provinces and one-third of the districts within the provinces;
- (b) nominated two candidates for each parliamentary seat in at least half of the provinces;
- (c) obtained at least 10 percent of the valid voted cast

nationwide;

- (d) received, in the constituency in question, valid votes at least equal to the simple electoral quotient.

By-elections are generally held to fill parliamentary seats which fall vacant between Elections.

The date of last Elections was October 20, 1991. Elections were held for all seats in the Parliament, following premature dissolution of this body, more than one year before the end of its normal term. General Elections had previously been held in November 1987.

Electoral System

All Turkish citizens who reach the age of 19 years during the elections year, except military students and persons serving their compulsory military service, are entitled to vote.

Qualified electors who are at least 30 years old and have completed their primary education, may be candidates for the Parliament provided that they have not been convicted of certain crimes listed in the Constitution, or sentenced to imprisonment of at least one year, and have completed their compulsory military service (for men). Public officials, civil servants or public employees and members of the armed forces may not stand for election unless they resign from their post.

Candidates may either be nominated by political parties or run as independents. They must be supported by a given number of electors (which varies according to the population of the constituency) and make a monetary deposit, which is reimbursed if they are unsuccessful.

Political Parties

The establishment, functions, auditing and dissolution of political parties are regulated by the Political Party Law. The main political parties in Turkey currently being represented in the Grand National Assembly of Turkey are:

- The True Path Party (DYP), established on 23 June, 1983,
Chairman : Suleyman DEMIREL,

- The Motherland Party (ANAP), established on 20 May, 1983 Chairman : Mesut Yilmaz,
- The Social Democratic Populist Party (SHP), established on May 20, 1983, Chairman : Erdal Inonu,
- The Welfare Party (RP), established on 19 July, 1983, Chairman : Necmettin Erbakan,
- The Nationalist Labour Party (MCP), established on July, 1983, Chairman : Alpaslan Turkes, and
- The Democratic Left Party (DSP), established on 14 November, 1983, Chairman : Bulent Ecevit.

During the 20 October, 1991 elections, no single party obtained a sufficient majority to govern on its own. The True Path Party (DYP) which emerged as the largest party and the Social Democratic Populist Party (SHP) which came third, have formed a coalition government.

UGANDA

Introduction

The land-locked East African country of Uganda was a British protectorate which became an independent member of the Commonwealth on 9 October, 1962. The Government was led by Dr. Milton Obote, leader of the Uganda People's Congress (UPC) and Prime Minister from 1962. In 1967 a new Constitution was adopted establishing a unitary republic. Dr. Obote was overthrown in January, 1971 by the army led by Idi Amin who established an authoritarian rule till he was forced to flee and take refuge in Saudi Arabia. In the election held in 1980 Milton Obote became President for the second time. However he was overthrown in a military coup in 1985. Yoweri Museveni, the leader of the National Resistance Army (NRA) was sworn in as President in 1986 and a National Resistance Council (NRC) was formed to act in place of a legislature until elections could take place.

Constitution

The governance of Uganda has been carried out according to the 1967 Constitution as amended from time to time till it was suspended in 1985 as a result of the military coup. The 1967 Constitution allows for an executive President, who is head of State, leader of the government and commander-in-chief of the armed forces. Parliament is the supreme legislative body and is made up of the President and the National Assembly of 82 members, later raised to 126. Constitutional amendments require a

two-thirds majority. Following the coup in 1985 the National Assembly was dissolved, executive power was vested in a Military Council whose Chairman was Head of State. In January, 1986, a further military coup established an executive Presidency, assisted by a Cabinet of Ministers and a legislative National Resistance Council (NRC), appointed by the President. In February, 1989, a Commission was appointed to review the Constitution.

Parliamentary set up

The National Resistance Movement, which took office in January, 1986, established a National resistance Council (NRC), initially comprising 80 nominated members, to act as a legislative body. National elections were held in February, 1989, at which 210 members of an expanded NRC were elected by members of regional Resistance Committees. The later were elected by village and parish Resistance Committees, who were directly elected by universal adult suffrage. The remaining 68 seats in the NRC were reserved for candidates nominated by the President. In October, 1989, the NRC approved legislation extending the Government's term of office by five years from January, 1990 when its mandate had been due to expire.

Electoral and Party System

In May, 1985, the National Assembly approved a Constitutional Amendment Bill, providing that a candidate at nomination for election should be a registered voter, and empowering the Assembly to disqualify for nomination for election any person who has not yet resigned from public service during the prescribed time. The Bill also provided that specially elected members should be chosen at the first meeting of the National Assembly after any dissolution. The Assembly also approved the National Assembly Elections Amendment Bill which provided that any political party taking part in a general election should demonstrate to the Electoral Commission that it has national support (to be defined as the sum of at least 1,000 registered voters in not less than 40% of the total number of constituencies).

Political parties were ordered to suspend active operations although not formally banned, in March, 1986. In March, 1990, this prohibition was extended for a further five years. Among the

political parties in Uganda are: the Conservative Party (CP), the Democratic Party (DP), the National Resistance Movement (NRM), the Uganda Freedom Movement (UFM), the Uganda People's congress (UPC) and the Ugandan People's Democratic Movement (UPDM).

THE UNITED ARAB EMIRATES

The U.A.E. lies on the Arabian Gulf, Bordered to the North by the Arabian Gulf, and to the East by the Gulf of Oman, and Sultanate of Oman, and to the South by the Sultanate of Oman, Saudi Arabia, and to the West by the Qatar, Saudi Arabia.

Prior to independence, the UAE was Trucial Osman, also known as the Trucial States, and the oomponent sheikhdoms of the territory were under British protection. In JJuly 1971, the Trucial States, Abu Dhabi, Dubai, Sharjah, Umm al-Qaiwain, Ajman and Fujairah had agreed on a federal constitution for achieving independence as the United Arab Emirates. The Inited Kingdom accordingly terminated its special treaty relationship with the States which had made these sheikhdoms British protectorates, and the UAE became independent on 2 December 1971. The remaining sheikhdom, Ras al-Khaimah, joined the UAE in 1972. At independence Sheikh Zayed of Abu Dhabi took office as the first President of the UAE withe Sheikh Maktoum bin Rashid al-Maktoum, the Crown Prince of Dubai is the Prime Minister in the federal Council of Ministers.

Constitution

A provisional constitution for the UAE took effect in December 1971 and laid the foundation for the federal structure of the Union of the seven emirates, previously known as the Trucial States. In 1975 a Committee was appointed to draft a permanent federal constitution, but the Federal National Council decided in

1976 to extend the provisional constitution for another five years. The provisional Constitution was extended for another five years in December 1981, and further periods of five years in 1986 and 1991. The 1971 constitution provided for the setting up of the Union Supreme Court and Union Primary Tribunals as the judicial organs of State.

Parliamentary set up

The Supreme Council is the highest authority in the country, formed from the rulers of the emirates members in the federation. The session held by the Supreme Council to take decision unanimously are held in rotation. The Supreme Council also elects the President and the Vice President. The cabinet of Ministers come as the second authority in the country. The cabinet introduces the budget and its implementation.

The laws, after it's endorsed by the cabinet Ministers are sent to the Federal National Council which have the right to Suggest amendments. The FNC consist of 40 members represented by all the Emirates.

The establishment of the Federal National Council (FNC) on 13 February 1972 was a landmark in the country's constitutional and legislative process, a positive step towards legalising the principle of Shura and expanding the people's participation in development and other political and economic fields.

According to the constitution, the FNC consists of 40 members drawn proportionately from each Emirate. Abu Dhabi and Dubai have eight members each, Sharjah and Ras al-Khaimah six members each and the remaining three Emirates-Umm Al Qaiwain, Ajman & Fujairah-have four members each.

The FNC structure is as follows

- (i) The Parliamentary section executive committee headed by Speaker, the council's Under Secretary, the secretary General and four elected members.
- (ii) Eight specialised committees dealing with studies regarding drafting laws and general issues referred to by the Council, in addition to the legislative, legal, educational, health, social, planning, labour, oil and mineral

resources, agriculture and fisheries and public work sectors.

The Council's secretariat is headed by the Secretary General.

The FNC, whose members are appointed, has powers to amend and review all legislation, and also to summon Ministers to review and criticise the work of their Ministries.

Electoral and Party System

There are no Political Parties in The U.A.E.

UNITED KINGDOM

Introduction

Great Britain is the geographical name of the Island which comprises England, Scotland and Wales. By the Act of Union 1801, Great Britain and Ireland formed the legislative Union known as the United Kingdom of Great Britain and Ireland. When Ireland separated from Great Britain in 1921, Northern Ireland remained in what is now the United Kingdom of Great Britain and Northern Ireland. The United Kingdom (UK) does not include the Channel Islands or the Isle of Man which are direct dependencies of the Crown with their own legislative and taxation systems. While Scotland has its own system of law and wide administrative autonomy, it is, like Wales and Northern Ireland, administered by a Secretary of State with a seat in the Cabinet.

Constitution

The United Kingdom is a constitutional monarchy. The constitution is, to a large extent, a product of historical events and is not set out in any single document. Instead, it is made up of statute law, common law and convention, rules and practices which are not legally enforceable but regarded as indispensable to the working of government.

The unwritten constitution can be altered by an Act of Parliament or by general agreement to alter a convention and is thus easily adaptable to changing political conditions.

The monarchy is the oldest institution of government. Queen Elizabeth II is herself a direct descendent of King Egbert who united England under his rule in 829 AD. The Queen is not only the Head of State, but is also an important symbol of national unity.

The Government is headed by the Prime Minister, who is normally the leader of the party which commands a majority in the House of Commons.

Parliamentary System

Three elements make up Parliament—the Queen, the House of Lords and the elected House of Commons. Under the Parliament Act of 1911 the maximum life of a Parliament was fixed at five years, after which a general election must be called. However, the Prime Minister may call an earlier election. During its lifetime, Parliament theoretically has absolute power to make or unmake any law. In practice, of course, it must justify its actions to the electorate.

The House of Commons is elected by universal adult suffrage and consists of 651 members of Parliament—each elected by simple majority vote in a single-member constituency. The Speaker is elected by its members to preside over the House of Commons.

There are 1209 peers entitled to sit in the House of Lords, consisting of the Lords Spiritual and the Lords Temporal. The Lords Spiritual are the Archbishops of Canterbury and York, the Bishops of London, Durham and Winchester, and the 21 next most senior diocesan bishops of the Church of England. The Lords Temporal are all hereditary peers and peeresses, life peers created to assist the House in its judicial duties, and all other life peers created after significant careers in private or public service.

The size and composition of the House of Lords are not fixed and its Members are not eligible to be Members of the House of Commons. However, there is provision for an MP who inherits a peerage to renounce it for his life-time and thus remain a Member of the House of Commons. Members of the House of Lords may become members of the European Parliament. The House is presided over by the Lord Chancellor who is an ex-officio Speaker of the House.

There are two types of Committee in the House of Commons—legislative (Standing) and inquiry (Select) committees. Each legislative committee is set up to deal with the "Committee" stage of any particular Bill and it may appoint sub-committees to deal with specific parts of its Bill. Select Committees, on the other hand, are normally set up for the duration of a parliamentary term. They have wide ranging terms of reference requiring each to monitor the performance of a government department or of a facet of the administration of the House. They have freedom to choose to investigate and report to the House on any subjects within their overall remit.

There are two main Select Committees in the House of Lords—the European Communities Committee, whose work is widely respected in the European Community, and the Science and Technology Committee. Both work through sub-committees and membership of both Committees is based more on personal expertise than on political allegiance. Ad hoc Select Committees are set up, more frequently in the Commons than in the Lords, to address particular issues.

Electoral Party System

For electoral purposes, Britain is divided into constituencies, each of which returns one member to the House of Commons. Elections are by secret ballot, with the candidate winning most votes taking the seat. There is considerable public pressure outside the ruling Conservative Party for some of proportional representation, to replace the present "first past the post" electoral system.

The Party system, which has existed in one form or another since the eighteenth century, is essential to the effective working of the constitution. It depends on the existence of organised political parties, each of which presents its policies to the electorate for approval before each election. Parties are not registered nor are they formally required by law but, in practice, most candidates in elections, and almost all winning candidates, belong to one of the main parties.

For the last 150 years a predominantly two-party system has existed. Since 1945, either the Conservative Party, the origins

of which go back to the eighteenth century, or the Labour Party, which emerged in the last decade of the nineteenth century, have held power. The third largest party, the Liberal Democrats, was formed in 1988, when the Liberal Party, with origins in the eighteenth century, merged with the Social Democrat Party, which had been formed in 1981. Other parties include two nationalist parties—*Plaid Cymru* (founded in Wales in 1925) and the *Scottish National Party* (founded in 1934). In Northern Ireland, there are a number of parties, including the Ulster Unionist Party, founded in 1971 by a group which broke away from the Ulster Unionists, and the Social Democrat and Labour Party, founded in 1970.

Since 1945, eight general elections have been won by the Conservative Party and six by the Labour Party; the majority of members of the House of Commons belong to one of these two parties.

The party which wins most seats at a general election, or which has the support of a majority of members in the House of Commons, usually forms the government. The largest minority party becomes the official opposition, with its own leader and "shadow cabinet."

TANZANIA

Introduction

The United Republic of Tanzania consists of Tanganyika, on the African mainland, and the nearby islands of Zanzibar and Pemba. Tanganyika, a former German colony, had been placed under a League of Nations mandate and later became a UN Trust Territory under British administration. It became independent within the Commonwealth on 9 December, 1961 with Dr. Julius Nyerere, the leader of the *Tanganyika African National Union* (TANU) as Prime Minister. In 1962, Tanganyika became a republic and Dr. Nyerere became the first President of the Country. Zanzibar signed an Act of Union with Tanganyika in 1946, thus creating the United Republic.

Constitution

Following the merger of Tanganyika and Zanzibar in 1964 to form the United Republic of Tanzania, an interim Constitution was created which provided for constitutional arrangements for the Union defining the legislative, executive and judicial organs of the government and establishing a one party State. In 1975, the National Assembly passed an Interim Constitution Amendment Bill which incorporated the fundamental principles of socialism and self-reliance into the Constitution and gave legal supremacy to TANU. In 1977, TANU and the Afro — Shirazi Party, the official party in Zanzibar, merged to form the *Chama Cha Mapinduzi* (CCM) which assumed legal supremacy. On 25 April, 1977, a permanent Constitution for the United Republic came into force. In October,

1979, the *Revolutionary Council of Zanzibar* adopted a separate Constitution, governing Zanzibar's internal administration, with provisions for a popularly elected President and a Council of Representatives elected by CCM delegates. An amendment to the Republic's Constitution in 1984 increased the powers of the National Assembly and provided for a Bill of Rights. A new Constitution for Zanzibar effective from 1985, provided for direct elections to the Zanzibar Parliament, the House of Representatives. In April 1992 draft amendments to the United Republic's Constitution, providing for the legalization of a multi-party system, were presented to the National Assembly for approval. The Constitution also provides for an independent judiciary. It can be amended by an Act of the Parliament of the United Republic, when the proposed amendment is supported by the votes of not less than two-thirds of all the members of the Assembly.

Parliamentary set up

Legislative power is exercised by the United Republic which is vested with complete sovereign power, and of which the present national Assembly is the legislative house. The Assembly enacts all legislation concerning the mainland. Internal matters in Zanzibar are the exclusive jurisdiction of the Zanzibar executive, the Revolutionary Council of Zanzibar, and the Zanzibar legislature, the House of Representatives. Under the provisions of the 1984 constitutional amendments, the National Assembly was to comprise : 101 members directly elected from the mainland; up to 55 members directly elected from the islands ; five members elected by the Zanzibar House of Representatives from among its own members; 15 seats allocated to women deputies; 15 members representing party organizations; 15 members nominated by the President ; and 25 *ex-officio* members (Regional Commissioners). The number of electoral constituencies is subject to revision by the Electoral Commission.

The President is the Head of state, Head of the Government and Commander-in-Chief of the Armed Forces. The President has no power to legislate without recourse to Parliament. The assent of the President is required before any Bill passed by the National Assembly becomes law. should the President withhold his assent and the Bill be re-passed by the National Assembly by a two-thirds majority, the President is required by law to give his assent within

21 days unless, before that time, he has dissolved the National Assembly, in which case he must stand for re-election.

The Presidential candidate is chosen by an electoral convention of the *Chama Cha Mapinduzi* (CCM). If the Convention's first choice is rejected by a majority of the voters, another candidate must be chosen and submitted to the vote.

To assist him in carrying out his functions, the President appoints two Vice-Presidents from the elected members of the National Assembly. If the President comes from the mainland, the First Vice-President must come from Zanzibar, and *vice versa*. One of the Vice-Presidents is President of Zanzibar and the other is Prime Minister of the Union, who leads government business in the Assembly. The Vice-Presidents and ministers comprise the Cabinet, which is presided over by the President, Ministers must be appointed from among the members of the National Assembly.

Electoral and Party System

Members of Parliament are elected for five years by universal adult suffrage unless the President dissolves Parliament at an earlier date. In each constituency, the official party puts forward two candidates chosen by the party membership. All candidates for election to the National Assembly must be approved by the *Chama Cha Mapinduzi* (CCM — Revolutionary party of Tanzania), the sole legal political party, of which the National Assembly and the Zanzibar House of Representatives are simultaneously the Party's Parliamentary Committees. At the National Assembly elections held on 28 October, 1990, there were reported to be 216 elective seats.

In April, 1992 draft constitutional amendments legalize a multi-party political system were presented to the National Assembly for approval. A national conference of the CCM elects the Chairman, Vice Chairman and Secretary-General of the Party. The National Executive Committee (NEC) of the Party includes 130 members elected by the national conference, 10 chosen by the NEC from a list presented by the Chairman, 25 regional party chairmen, five chairmen of mass organizations, the Chairman, Vice-Chairman and Secretary-General of the Party. The NEC also elects a Central Committee.

UNITED STATES OF AMERICA

Introduction

The United States of America comprises mainly of the North American Continent between Canada and Mexico, Alaska, to the North West of Canada, and Hawaii, in the Central Pacific Ocean.

The peace of Paris (1763) brought to a close series of wars between France and England. It marked both a triumph for Britain in the long-extended struggle for colonial supremacy and a turning point in British Colonial Policy. Within a decade, the new policy led to the American Revolution. On 15, May 1776 a Virginian Convention "Resolved, unanimously to declare the United Colonies free and independent States". In response to these instructions on 2 July, American independence was declared on 4 July, 1776.

Constitutional Set-up

The Constitution of the United States of America was adopted on 4 March, 1789. As originally adopted, the Constitution consisted of a Preamble and seven articles containing, about four thousand words.

The USA is a federal Republic. Each of the 50 States and the District of Columbia exercise a measure of internal self-government. The President is the head of the executive bench and is elected for a four year term by a college of electors elected directly from each State. The President appoints other members of the executive, subject to the consent of the Senate.

Parliamentary System

The bicameral Parliament of the United States of America, the Congress, consists of the Senate and the House of Representatives.

[The Senate is composed of 100 members elected on the basis of two for each of the country's 50 States. One-third of the Senators are chosen every two years in such manner that, in each State, both Senators are not normally standing for election at the same time. Each Senator enjoys a term of six years.] The Vice-President of the country is the *ex officio* Presiding Officer of the Senate. In his absence, a President *pro tempore* is elected by the Senate or someone designated by the Vice-President presides.

The house of Representatives is composed of members elected for 2 years from each of the 50 States in such manner that each representative represents roughly the same number of citizens provided that each State has, at least, one representative. It consists of 435 members. The Speaker —chosen by the house— is its Presiding Officer with a Clerk of the House to assist him. The number of representatives of each State in Congress is determined on the basis of the State's Population. The Committee system is a part of the Formal organisation of Congress. Most of the work is done through Committees. Of the several types, the Standing Committees are the most significant. Standing Committees are regular, permanent Committees of the House and the Senate. There are 22 Standing Committees in the House of Representatives and 16 in the Senate, plus four Joint Committees with member from both Houses : Library of Congress, printing, taxation, and economics. In addition, there are special Committees in each House and various Congressional Committees and joint Committees composed of Members of each House. Each House may also appoint Special Investigation Committees. Members for the Standing Committees are elected by respective Houses by vote and for other committees, members are appointed by measures establishing them.

Each Bill and resolution is referred to the appropriate committee, which may report a Bill out in the original form, favourably or unfavourably, recommend amendments, or allow the proposal legislation to die on Committee without action.

In addition to the Standing Committees, the House and Senate employ three other types of Committees, — joint, select or special and Conference Committees.

Electoral and Party Systems

In all states, electors are required to be United States Citizens and not less than 18 years of age. In elections other than Presidential, the United States Supreme Court has held that a maximum period of 30 days residence in a State is what a Constitutionally permissible.

No person may be Representative who has not attained the age of 25 years and has been for seven years a citizen of the United States and an inhabitant of his State, for the Senate, the requirement is 30 years of age and nine years citizenship and an inhabitant of his State.

Members of the Congress are all directly elected, on the basis of simple plurality of vote.

If a seat in House of Representatives becomes vacant between General elections, a special election is held as soon as practicable. If a seat becomes vacant in the Senate, the Governor in 49 of the 50 States may, through a temporary appointment, fill it either for the remainder of the term or, until the next general election, when a special election is held, depending on State requirements. One State (Arizona) requires that Senate vacancies are filled only by special election.

Political parties are the basis of the American political system. Curiously, the Constitution makes no provisions for political parties nor for their role as the vehicle by which candidates for public office are proposed to the voters.

At the national level, the United States employs a two-party system that has remained remarkably durable throughout the nation's history, even though rival national parties have appeared and disappeared from the political scene. The Federalists, for example, who rallied around President George Washington, disappeared slowly after 1800; and the Whig party, which arose in the 1830s in opposition to President Andrew Jackson, a Democrat, collapsed two decades later. Today, the Democratic Party,

which traces its origins back to the nation's third President Thomas Jefferson, and the Republican Party, founded in 1854; continue to dominate politics at the federal, state and local levels.

One explanation for the longevity of the Republican and Democratic parties is that they are not tight ideological organizations, but loose alliances of state and local parties that unite every four years for the presidential election. Both parties compete for the same broad center of the American electorate, and although Republicans are generally more conservative than Democrats, both parties contain relatively liberal and conservative wings that continually vie for influence.

Nevertheless, other parties are also active, and particularly at the state and local levels, they may succeed in electing candidates to office and in exercising considerable influence. During the early 20th century, for example, members of the Socialist Party were elected to the House of Representatives and as the mayors of over 50 towns and cities. The Progressive Party held the governorship of Wisconsin for a number of years and in 1974 an independent candidate became Governor of Maine. In recent years the most significant third party has been the Libertarian Party.

URUGUAY

Introduction

Uruguay lies on the south-east coast of South America. Since its independence from Spain in 1825, Uruguay's political life has been dominated by two parties : the Colorados ("reds" or Liberals) and the Blancos ("whites" or Conservatives subsequently known as the *Partido Nacional*). Their rivalry resulted in frequent outbreaks of civil war in the 19th century. Between 1951 and 1966 the Presidency was in abeyance, being replaced by a collective leadership.

Constitution

The present Constitution of Uruguay was ratified by Plebiscite on 27 November, 1966, when the country voted to return to the Presidential form of government after 15 years of "collegiate" government. Uruguay has a democratic republican form of government. Sovereignty belongs to the nation which is exercised directly by the Electoral Body in cases of election, by initiative or by referendum, and indirectly by representative powers established by the Constitution, according to the rules set out therein. There is total freedom of belief and of expression of ideas. The constitution expressly guarantees all the inhabitants rights, obligations and warranties. There is no state religion, and property is inviolable. Every citizen has the right and obligation to vote. The Judicial power is exercised by the Supreme Court of Justice, whose five Ministers are elected by the General Assembly with the affirmative

vote of two-thirds of members. Their mandate ceases after ten years, or upon reaching this age of 70. The Supreme Court of Justice appoints judges and destinations and carries out the administration of justice in the areas of Penal, civil, customs, family, minors etc.

Parliamentary Set-up

The Congress (General Assembly) is the repository of Legislative power in the country. It is a bicameral body consisting of the 99-members Chamber of Representatives and a Senate having a strength of 30. Both Houses are elected directly by universal suffrage through a system of proportional representation. To be a candidate for election, a person must be 25 years of age and a natural or legal citizen with five years citizenship in case of the Chamber of Representatives and for the Senate he must be a citizen of seven years standing, and 30 years in age. Both Houses have a uniform term of 5 years. Charges of violation of Constitution and treason etc. against high public functionaries are framed by the Representatives and headed by the Senate who can deprive the guilty of his post by a two-thirds majority.

Government

Executive power is exercised by the President and the Council of Ministers. The President and the Vice-President are elected by simple majority of the people by means of the system of double simultaneous vote, and remain in office for five years. The Vice-President is the President of the Congress (General Assembly) and the Senate. The Council of Ministers is made up of the Office holders in the 11 Ministries or their deputies, and is responsible for all acts of government and administration. It is presided over by the President of the Republic who has a vote.

Electoral and Party Systems

Voting is universal, secret and mandatory for all natural and as well as qualified legal citizens. All citizens are electors and, under certain conditions of age and citizenship, are eligible for office in the highest ranks of government. Elections are held every five years on the last Sunday of the month of November; they are general, and citizens vote to elect the President and Vice-President of the Republic, Senators, Representatives, and the Depart-

mental Governments. The Electoral Court consisting of nine members ensures a strict control over the purity of the electoral act. There is law ("*the Ley de Lemas*") which allows for the presentation, within any one Political Party, of more than one list of candidates for the offices of President, Vice-President, Senators and Representatives; votes for these different lists are accumulated into the sum total of the Political Party ("*Lema*"). Once the election results are proclaimed, the newly elected chambers take office on the 15th February, the President and Vice-President on the 1st March. All of these stay in office for five years.

Since Independence the *Partido Colorados* and the *Partido Nacional* (Blancos) have dominated the political life of Uruguay. There are also other political parties like the *Frente Amplio*, the *Nuevo Espanol*.

UZBEKISTAN

Introduction

The Republic of Uzbekistan (formerly the Uzbek Soviet Socialist Republic) is located in Central Asia. It is bordered by the Republics of Kazakhstan, to the North, Turkmenistan, to the South, Kyrgyzstan, to the East and Tajikistan to the South-East and Afghanistan to the South.

The Uzbeks are descendants of nomadic Mongol tribes who mixed with the sedentary inhabitants of central Asia in the 13th century A.D. In the 18th and 19th centuries the most prominent political formations in the territory were the Khanates of Bukhara, Samarkand and Kokand. Russian conquest of the region between the *Syr-Dar'ya* and the *Amu-Dar'ya* was completed when Russian forces conquered the *Khanate of Kokand*, in 1876.

Soviet power was first established in Tashkent in November, 1917. The National Delimitation of the Central Asian Republics of 1924-25 created an Uzbek nation state for the first time.

On 18 February, 1990, elections were held to the Uzbek Supreme Soviet. The new Supreme Soviet was convened in March 1990 and elected Islam Karimov to the post of executive President. In November, 1990, there was a reorganization of government. The Council of Ministers, was abolished and replaced by a cabinet of Ministers, headed by the President of the Republic. Its Chairman Mirsaidov was appointed to the newly established post

of Vice-President. In early January, 1992, however, the post of Vice President was abolished and the post of premier re-established.

In April, 1991, the Uzbekistan agreed, together with eight other Republics, to sign a Union Treaty. However, on 19 August the day before the signing was to take place, a State Committee for the State of Emergency (SCSE) attempted to stage a coup d'état in Moscow. On August, 31 after the coup had failed, an extraordinary session of the Supreme Soviet voted to declare the Republic independent and changed its name to the Republic of Uzbekistan. On 13 December, Uzbekistan together with the other four central Asian Republics, agreed to join the CIS, provided it would be acknowledged as a co-founder of the Commonwealth. Uzbek membership was formalized at a ceremony in *Alma-Ata*, on 21 December, when Karimov agreed together with 10 other republican leaders, to dissolve the USSR and formally establish the CIS.

Government

Presidential elections took place on 29 December, 1991 and were won by Karimov who was uncontested. On January, 1992, the post of Vice-President was abolished and that of Chairman of the Cabinet of Ministers re-established.

Parliamentary System

The Supreme Soviet, consisting of 550 members, is the supreme legislative organ in the Republic. The majority of deputies elected in 1990 were members of the communist party. In late 1991, 20 were members of the opposition *Erk*; the remainder were mainly members of the new formed people's Democratic Party of Uzbekistan, which replaced the Communist Party in 1991.

Party System

Uzbekistan according to the 1991 Constitution is a Multi party polity. Some of the important parties are : *Birlok*; *Erk*; *Islamic Democratic Party*; *Peoples Democratic Party of Uzbekistan*, *Islamic Renaissance Party*; and *People's Front of Uzbekistan*.

VENEZUELA

Introduction

The Republic of Venezuela lies on the North coast of South America. It was a Spanish colony for three centuries till 1810, and achieved independence in 1811 under the leadership of Simón Bolívar. The country's republican life for over hundred subsequent years frequently was marked by civilian strife and political unrest often under dictatorships. It was not until 1947 that the direct election of a President in the person of the famous novelist, Romulo Gallegos, took place. At the Presidential and legislative elections in December 1988, Carlos Andres Perez of the *Accion Democratica* (AD) was elected as the President of Venezuela.

Constitution

The Constitution of Venezuela was promulgated in January 1961. The Federal Republic of Venezuela is divided into 20 states, one Federal District, two Federal Territories and 72 Federal Dependencies. The States are autonomous but must comply with the laws and Constitution of the Republic. Judicial power is exercised by the Supreme Court of Justice and by the Tribunals.

parliamentary set up

Legislative power is held by the bicameral National Congress, with a Senate consisting of 49 elected members plus ex-Presidents of the Republic and a Chamber of Deputies consisting of 201 members. Senators are elected by universal suffrage, two

to represent each State, and two to represent the Federal District. There are in addition other Senators their number being determined by law, who are selected on the principle of minority representation. Ex-Presidents of the Republic are life members of the Senate. Deputies are also elected by direct universal and secret suffrage, the number representing each State being at least two and for each Federal Territory one. A deputy must be of Venezuelan nationality and be over 21 years of age. Ordinary sessions of both Chambers begin on the second day of March of each year,

and continue until the sixth day of the following July; thereafter, sessions are renewed from the first day of October to the thirtieth day of November, both dates inclusive. The Chamber of Deputies is empowered to initiate legislation. Congress also elects a Controller-General to preside over the Audit Office (*Centraloria de la Nacion*), which investigates Treasury income and expenditure, and the finances of the autonomous institutes.

Executive Power is vested in a President of the Republic elected by universal suffrage every five years, who may not serve two consecutive terms. The President is empowered to discharge the Constitution and the laws, to nominate or remove Ministers, to take supreme command of the Armed Forces, to direct foreign relations of the State, to declare a state of emergency and withdraw the civil guarantees laid down in the Constitution, to convene extraordinary sessions of the Congress and to administer national finance. The President also appoints an Attorney-General to act as a legal arbiter for the State.

Electoral and Party system

All Venezuelians above 18 years of age are eligible to vote. The President, Senators and Deputies are elected by universal adult suffrage for five years terms.

A large number of political parties exist in Venezuela. Among the prominent parties are the *Action Democratica* (AD), the *Movimiento de Integracion Nacional* (MIN), the *Movimiento de Izquierda Revolucionaria* (MIR), the *Movimiento al Socialismo* (MAS), and the *Partido Social-Cristiano* (COPEI).

VIETNAM

Introduction

Situated in South-east Asia, the Socialist Republic of Vietnam was a French Protectorate. The Democratic Republic of Vietnam with Ho Chi Minh as President, was established in 1945. In 1949 the French established the State of Vietnam. In the South as hostilities broke out the French were defeated at Dien Bien Phu in 1954. Later the French withdrew from South Vietnam and Ngo Dinh Diem became the Prime Minister of the State of Vietnam in 1955, and following a referendum, proclaimed himself President of the Republic of Vietnam. Diem was ousted

Constitution

A new Constitution was adopted by the Vietnamese National Assembly on 15 April 1992 according to which all state power belongs to the people who exercise it through the National Assembly and the People's Councils. The Constitution makes the Communist Party of Vietnam as the leading force of the state and society. However, the Constitution stipulates that the Party must be subject to the law. While affirming adherence to a State-regulated socialist economic system, the new Constitution guarantees protection for foreign investment in Vietnam, and permits foreign travel and overseas investment for Vietnamese. The Constitution provides for greater power to the National Assembly now reduced in size. The judicial system comprises the Supreme People's Court, local People's Courts, military tribunals and other

courts. The term of office of the presiding judge of the Supreme People's Court corresponds to the terms of the National Assembly, and he or she is responsible to the National Assembly. Amendments to the Constitution may only be made by a majority vote of at least two-thirds of the Assembly's members.

Parliamentary set up

The National Assembly is the people's highest representative agency and the highest organ of State power, exercising its supreme right of supervision over all operations of the State. The Assembly is elected for a five-year term by universal adult suffrage, and has a maximum of 400 members. It elects the President, who is also the Head of State, the Vice-President, the Prime Minister and senior judicial officers, and ratifies the Prime Minister's proposals for appointing members of the Government. The National Assembly Standing Committee supervises the enforcement of laws and the activities of the Government. The President is empowered to ask the National Assembly to appoint or dismiss the Vice-President, the Prime Minister, the Chief Justice of the Supreme People's Court. According to resolutions of the National Assembly or of its Standing Committee, the President appoints or dismisses members of the Government which comprises of the Prime Minister, the Deputy Prime Minister, Ministers and other members, and declares war or a state of emergency.

Electoral and Party system

Members of the National Assembly are elected for a five year term by universal adult suffrage. The Constitution describes the Communist Party of Vietnam as the leading force of the State and society. The party's role is primary in all state activities, overriding that of the government, which functions merely to implement party policies. Citizens belong to mass organisations appropriate to their status. Other political organisations that exist in Vietnam are: the Ho Chi Minh Communist Youth Union, the Viet-Nam Fatherland Front and the Vietnamese Women's Union.

YEMEN

Introduction

The Republic of Yemen is situated in the South of the Arabian peninsula, bounded to the north by Saudi Arabia, to the east by Oman, to the South by the Gulf of Aden, and to the West by the Red Sea. The islands of Perim and Kamaran at the southern end of the Red Sea, the island of Socatra, at the entrance to the Gulf of Aden, and the Kuria Maria Islands, near the coast of Oman, are also part of the Republic.

The Republic of Yemen was formed in May 1990 by the amalgamation of the Yemen Arab Republic and the People's Democratic Republic of Yemen.

Constitutional Set up

A draft Constitution for the United Republic of Yemen (based on the one endorsed by the Yemen Arab Republic (YAR) and the People's Democratic Republic of Yemen (PDRY) in December 1981) was published in December 1989, and was approved by a popular referendum on 15-16 May 1991.

During the 30 month period of transition following the unification of the two Yemens in May 1990, executive power was vested in the President, assisted by four other members of a Presidential Council and a Council of Ministers, headed by a Prime Minister.

Parliamentary System

The legislatures of the YAR and the PDRY amalgamated to form a House of Representatives, with 301 member (including 31 members appointed by the President).

The House of Representatives has 301 members: the 159 members of the Consultative Council (Majlis-cash-Shura) of the former YAR; the 111 members of the Supreme People's Council of the former PDRY; and 31 new members nominated by President Saleh.

Party System

In the PDRY the YSP was the only legal Political Party until December 1989, when the formation of opposition parties was legalised. There were no political parties in YAR. The two leading parties which emerged in the unified Yemen were the General People's Congress (GPC); and the Yemen Socialist Party (YSP). During 1990, an estimated 30 further political parties were reported to have been formed.

YUGOSLAVIA*

Introduction

The former Socialist Federal Republic of Yugoslavia (SFRY) lies in South Eastern Europe. Until 1991 the SFRY was comprised of the Republics of Serbia, Croatia, Macedonia, Montenegro, Slovenia and Bosnia—Herzegovina, as well as the autonomous Serbian provinces of Kosovo and Vojvodina. Slovenia declared that it was no longer a Socialist Republic in March, 1990. Other republics began to follow suit. In mid 1991, Slovenia and Croatia became the first Republics to dissociate themselves from the federation. In April, 1992, the Federal Republic of Yugoslavia (FRY), comprising Serbia and Montenegro, was established.

Constitution

The Constitution of the new Federal Republic of Yugoslavia was adopted on 27 April, 1992. The FRY is a sovereign federal state, based on the principles of equality of its citizens and its

* Following the break-up of the former Socialist Federal Republic of Yugoslavia, represented in the IPU, five new States emerged, four of which have been recognized by the United Nations. The IPU maintained the affiliation of the Federal Assembly of the Federal Republic of Yugoslavia (made up of the Republics of Serbia and Montenegro); the parliament of Croatia was subsequently affiliated to the IPU; the affiliation of the Parliament of Slovenia will be considered at the time of the 89th Inter-Parliamentary Conference in New Delhi.

member republics. Each member of republic has sovereignty over issues which, under the federal Constitution, do not come within the competence of the FRY. In the FRY, power is in the hands of citizens who exercise it either directly or through their freely-elected representatives. The state is based on the rule of law, recognises and guarantees human liberties and citizens' right as recognised by international law. The FRY recognises and guarantees the rights of national minorities to preserve, develop and express their ethnic, cultural, linguistic and the characteristics and their right to use their own national symbols in accordance with international law. All citizens are equal regardless of their national affiliation, race, sex, language, religion, political or other convictions, education, social origin, property, status or any other personal characteristic. Each citizen has a duty to respect the freedoms and rights of others and will be accountable for it.

Parliamentary set-up

The authority in the FRY is divided into legislative, executive and judicial. The legislative body, the Federal Assembly is composed of two chambers, the Chamber of Republics and the Chambers of Citizens, both comprising representatives of Serbia and Montenegro.

The collective Presidency which was in existence since 1980, ceased to exist in June 1992 upon the election of a single Presidency of the FRY. The Federal Executive Council led by a President is the administrative branch of the government.

The Federal Court is the highest organ of justice. It decides on extraordinary legal remedies against decisions of supreme courts of the Republic and the Supreme Military court, and on the legality of finally binding administrative acts of federal government agencies, based on federal statutes. There is also a constitutional court to decide on the conformity of statutes with the federal Constitution.

Electoral and Party System

Elections to both the Chambers of the Federal Assembly were held in May, 1992.

According to the Constitution, political pluralism is a con-

dition for and guarantee of, a democratic political system in the FRY. Following the approval of the introduction of a multi-party system of the ruling League of Communists of Yugoslavia (LCY) in 1990, numerous new parties and groups were founded or re-established. Among the more prominent of the federal parties are the Association for a Yugoslav Democratic Initiative, the League of Communists—Movement for Yugoslavia (LC-MY), the Party of Reformists, Socialist Democratic Alliance of Yugoslavia, the workers' Party of Yugoslavia, the Yugoslav Democratic Party.

ZAMBIA

Introduction

Zambia (previously known as Northern Rhodesia), a landlocked State in southern Central Africa was a British colony which became independent in October 1964. Dr. Kenneth Kaunda, the leader of the United National Independence Party (UNIP) from 1960 and Prime Minister from 1964, became the country's first President. Zambia was proclaimed a one-party state in December 1972. the Constitution promulgated in 1973 provided for an executive President who is head of State and of the UNIP. Under the 1973 Constitution, the ruling party was invested with authority greater than that of the cabinet over planning and matters of policy. A new Constitution was adopted by the National Assembly, the Zambian Parliament, in August 1991.

Constitution

The new Constitution for the Republic of Zambia, which was approved by the National Assembly on 2 August 1991, provides for a multi party system. The President who is the head of the Republic is elected by popular vote at the same time as elections to the National Assembly. The tenure of the President is limited to two five year terms. The National Assembly is a unicameral body. The Constitution provides for a Bill of Rights enshrining individual rights and fundamental freedoms. The final court of Appeal is the Supreme Court of Zambia and the Chief Justice and other judges are appointed by the President.

Parliamentary set-up

The legislature, the National Assembly, consists of 150 members elected by universal suffrage. The President appoints a Vice President and a Cabinet from amongst the members of the National Assembly. The Constitution also provides for a House of Chiefs numbering 27 four from each of the Northern, Western, Southern and Eastern provinces, three each from the North-Western, Luapula and Central Provinces and two from the Copperbelt Province. It may submit resolutions to be debated by the Assembly and consider those matters referred to it by the President.

Electoral and Party system

The President of Zambia and members of the National Assembly are elected by universal suffrage. Under the provision of the new Constitution, Zambia is a multi-party State. Among the most prominent political organisations are - the Democratic Party (DP), the Movement for Democratic Process (MPP), the Movement for Multi-Party Democracy (MMD), the Multi-Racial Party (MRP), the National Democratic Alliance (NADA), and the United National Independence Party (UNIP).

ZIMBABWE

Introduction

The southern Africa Republic of Zimbabwe (earlier Southern Rhodesia) became a British colony in 1923. In 1953, the colony united with two British Protectorates, Northern Rhodesia (present Zambia) and Nyasaland (present Malawi) to form the Federation of Rhodesia and Nysaland. However, it was dissolved in 1963. The Ian Smit government of Southern Rhodesia, which suppressed the African people, declared unilateral independence in November 1965. Both the Zimbabwe African People's Union (ZAPU) and the Zimbabwe African National Union (ZANU) took up arms against the white regime. A war of independence started. Following the Commonwealth Conference in Zambia in 1979 steps for a durable settlement to the problem of Rhodesia were taken. Ban on ZAPU and ZANU was lifted and elections to a new House of Assembly under the supervision of a British Electoral Commissioner took place. The new State of Zimbabwe became independent on 18 April 1980.

Constitution

Constitution of the Republic of Zimbabwe which is the supreme law of the land, took effect on 18 April 1980. It declares Zimbabwe to be a sovereign republic. The 1980 Constitution provided for a bi-cameral legislature, consisting of a House of Assembly directly elected by universal adult suffrage, and a Senate. The declaration of rights guarantees the fundamental rights and free-

doms of individual. The Constitution can be amended by a two-thirds of the members of the House of Assembly. The legal system is Roman-Dutch, based on the system which was in force in the cape of Good Hope on 10 June 1891, as modified by subsequent legislation.

Parliamentary Set up

Under the 1980 Constitution, Parliament was to consist of a Senate and a House of Assembly. The life of Parliament was ordinarily to be five years. In 1990, the Senate was abolished and the House of Assembly was expanded to comprise 150 members of whom 120 were directly elected, 12 were nominated by the President, 10 were traditional Chiefs and eight were Provincial Governors. The life of the restructured House of Assembly was to be six years.

Executive authority is vested in the President, elected by Parliament for six years. An amendment to the Constitution approved in 1987, now provides for election of the President by direct popular vote, rather than by members of the House of Assembly. The President appoint a Vice president and other Ministers and Deputy Ministers to be members of the Cabinet.

Electoral and Party System

120 members to the House of Assembly are directly elected by universal adult suffrage. A competitive multiparty system is a feature of Zimbabwe's political system. Following the accorded between ZANU and ZAPU, the two parties merged in December 1988 to form a single party, known as Zimbabwe African National Union - Patriotic Front (ZANU-PF). The United Party aimed to establish a one-party State. However, in January 1991, President Mugabe announced that he had abandoned his earlier plan to establish a one party State. Among the important parties in Zimbabwe are : the Zimbabwe African National Union-Patriotic Front (ZANU-PF), the Zimbabwe African National Union-Ndonga (ZANU-Ndonga), the Zimbabwe National Front and the Zimbabwe Unity Movement (ZUM).



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